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Regulations

TITLE 7—AGRICULTURE

Chapter IX—War Food Administration
(Marketing Agreements and Orders)

PART 927—ORDER, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE NEW YORK METROPOLITAN MILK MARKETING AREA

ORDER SUSPENDING CERTAIN PROVISION

Pursuant to the applicable provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 1940 ed. 601 *et seq.*), hereinafter referred to as the "act", and of the order, as amended, regulating the handling of milk in the New York metropolitan milk marketing area, it is hereby determined that the words "in absence of proof of use in a specific class," as contained in § 927.3 (a) (1) (iii) of the order, as amended, do not tend to effectuate the declared policy of the act.

It is, therefore, ordered. That effective as of 12:01 a. m., e. w. t., June 1, 1944, the words "in absence of proof of use in a specific class," as contained in § 927.3 (a) (1) (iii) of the order, as amended, regulating the handling of milk in the New York metropolitan milk marketing area, are hereby suspended.

Done at Washington, D. C., this 3d day of May 1944.

THOMAS J. FLAVIN,
Assistant to the
War Food Administrator.

[F. R. Doc. 44-6358; Filed, May 4, 1944;
11:19 a. m.]

Chapter XI—War Food Administration
(Distribution Orders)

[WFO 8, Amdt. 1]

PART 1401—DAIRY PRODUCTS

FROZEN DAIRY FOODS AND MIX

War Food Order No. 8, 9 F.R. 4319 (formerly designated as Food Distribution Order No. 8, as originally issued by the Secretary of Agriculture on January

19, 1943, 8 F.R. 953, and as amended, 8 F.R. 12163), is amended as follows:

1. By deleting the provisions of § 1401.31 (a) (6), and inserting, in lieu thereof, the following:

(6) The term "governmental agency" means (i) the Armed Services of the United States (for the purposes of this order, including, but not restricted to, the United States Army Post Exchanges; United States Navy Ships' Service Departments; and the United States Marine Corps Post Exchanges); (ii) the War Shipping Administration; (iii) the Veterans' Administration; and (iv) any other instrumentality or agency designated by the War Food Administrator. The term "governmental agency" also includes any person who, pursuant to a war food order, is entitled to purchase frozen dairy foods or mix subject to this order.

2. By deleting the provisions of § 1401.31 (b) (1) and § 1401.31 (b) (2) and inserting, in lieu thereof, the following:

(b) *Restrictions on production of frozen dairy foods and mix.* (1) During the allocation periods commencing May 1, 1944, and June 1, 1944, respectively, as specified in War Food Order No. 8.1, 9 F.R. 4319 (formerly designated as Food Distribution Order No. 8-1, as issued by the Director on February 1, 1943, 8 F.R. 1330), no processor may utilize in the production of frozen dairy foods or mix more than 75 per centum of the total milk solids used by the respective processor in the production of such products, respectively, during the corresponding portion of the base period, exclusive of all such products processed for, or sold to, a governmental agency by such processor during such corresponding portion of the base period. During each allocation period commencing after June 30, 1944, specified by the Director in said War Food Order No. 8-1, or hereafter specified by the Director, no processor may utilize in the production of frozen dairy foods or mix more than 65 per centum of the total milk solids used by the respective processor in the production of such products, respec-

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NOTICE

The Cumulative Supplement to the Code of Federal Regulations, covering the period from June 2, 1938, through June 1, 1943, may be obtained from the Superintendent of Documents, Government Printing Office, at \$3.00 per book. The following are now available:

- Book 1: Titles 1-3 (Presidential documents) with tables and index.
- Book 2: Titles 4-9, with index.
- Book 3: Titles 10-17, with index.

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[WFO 60, Amdt. 1]

PART 1460—FATS AND OILS

FISH OIL

War Food Order 60 (9 F. R. 2535, 4319), § 1460.16, is amended to read as follows:

§ 1460.16 *Use, consumption, processing, and delivery of fish oil restricted*—
(a) *Definitions.* (1) "Fish oil" means oil, other than oil produced solely from the livers or viscera of fish or marine animals, produced by the reduction of the whole or any part of any fish or marine animal of the following species, commonly known as: California sardine or Pacific Coast pilchard (*Sardina caerulea*), menhaden (*Brevoortia tyrannus*), Pacific Coast herring (*Clupea pallasi*), West Coast mackerel (*Scomber diego*), Tuna and tuna-like fish, salmon (Genus: *Oncorhynchus*), rose fish (*Sebastes marinus*), and seal. The term shall include all such oil, whether crude, refined, pressed, sulphonated, or otherwise processed; and all the by-products and derivatives of such oil, including, but not limited to, foots, stearine, and fatty acids, but excluding pitch and glycerine.

(2) "Crude sardine or menhaden oil" means any oil, which has not been refined, or otherwise processed, produced by the reduction of the whole or any part of any fish of the following species, commonly known as: California sardine or Pacific Coast pilchard (*Sardina caerulea* or menhaden (*Brevoortia tyrannus*)). However, fish oil as defined in paragraph (a)(1) hereof shall include crude sardine or menhaden oil as defined herein.

(3) "Person" means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not.

(4) "Producer" means any person engaged in the production of crude sardine or menhaden oil.

(5) "Distributor" means any person who purchases and resells fish oil but does not process such oil.

(6) "Tank car" means a quantity of crude sardine or menhaden oil weighing 60,000 pounds.

(7) "Certified order" means a written order given to a producer for one or more tank cars of crude sardine or menhaden oil which has included therein, or attached thereto, a certificate properly filled out and executed in accordance with the provisions of paragraph (b) (3) hereof.

(8) "Set aside oil" means oil originally acquired from a producer pursuant to a certified order or the oil which is substituted for such oil under the applicable provisions of paragraph (b) (3) hereof.

(9) "Essential use" means the use or consumption of fish oil in hot dip tinning, terne plating, or galvanizing, or in the manufacture of any of the following products:

- (i) Insulating varnishes,
- (ii) Ship bottom paint,
- (iii) Alkyd resins,
- (iv) Heat resistant paint,
- (v) Water-insoluble metallic soaps,
- (vi) Lubricants,
- (vii) Caulking compounds,
- (viii) Mechanical packing,
- (ix) Textile sizes, or

Issued this 1st day of May 1944.
WILSON COWEN,
Assistant War Food Administrator.
[F. R. Doc. 44-6281; Filed, May 2, 1944;
3:17 p. m.]

(x) Natural or synthetic rubber products.

(10) "Essential processing" means any processing of fish oil which will render it suitable for an essential use.

(11) "Vitamin A feeding oil" means vitamin feeding oil which is sold by the manufacturer thereof with a guarantee of a minimum vitamin A potency.

(12) "Vitamin D feeding oil" means vitamin feeding oil which is sold by the manufacturer thereof with a guarantee of a minimum vitamin D potency.

(13) "Vitamin A and D feeding oil" means vitamin feeding oil that is sold by the manufacturer thereof with a guarantee of a minimum potency of both vitamin A and vitamin D.

(14) "Stock pile oil" means fish oil acquired by a governmental agency under the provisions of Food Distribution Order 59 (8 F.R. 9104).

(15) "Director" means the Director of Distribution, War Food Administration.

(b) *Restrictions on crude sardine or menhaden oil.* (1) Every producer shall set aside for delivery pursuant to certified orders, or as specifically authorized by the Director, the following tank cars of crude sardine or menhaden oil produced by him on or after April 1, 1944, and prior to December 15, 1944, in each plant operated by him, to wit:

(i) The second,

(ii) The fourth, and

(iii) Every third tank car thereafter, that is to say, the seventh, tenth, etc.

However, in making deliveries pursuant to the provisions of this paragraph (b) (1), a producer shall be allowed a tolerance of 3,000 pounds per tank car, and shall be permitted to substitute for any tank car of crude sardine or menhaden oil required to be set aside hereunder a tank car of crude sardine or menhaden oil previously produced in the same plant.

(2) Any tank car of crude sardine or menhaden oil required to be set aside under the provisions of paragraph (b) (1) hereof shall be released from the restrictions of said paragraph, if so ordered by the Director, or, if on the day on which the production of such tank car of crude sardine or menhaden oil is begun, the producer thereof does not have an unfilled certified order which was received by him at least 14 days prior thereto, or has not been specifically authorized by the Director to deliver such tank car of crude sardine or menhaden oil.

(3) No person shall accept delivery of crude sardine or menhaden oil, required to be set aside under the provisions of paragraph (b) (1) hereof, from a producer unless he shall order such oil from the producer in a quantity equal to a tank car or multiples thereof and shall attach to, or incorporate in, such order a duly executed certificate in the following form:

The undersigned hereby certifies to the War Food Administration and to _____ (supplier)

that this certificate constitutes a part of an order by him to said supplier for _____ tank cars of crude sardine or menhaden oil and that any such oil delivered to the under-

signed pursuant to this order will be subjected to an essential processing or used for an essential use by the undersigned, or in lieu thereof, the undersigned will, upon receipt of the oil ordered herewith, set aside for essential uses or essential processing an equivalent amount of fish oil, other than Pacific Coast herring oil, seal oil, or fish oil delivered pursuant to a certified order. This certificate is given in compliance with WF 60, as amended, the terms of which are familiar to the undersigned.

(Purchaser)

By _____

(Authorized official)

(Date)

No person who receives crude sardine or menhaden oil pursuant to an order certified as herein provided shall subject such oil to any processing other than an essential processing or use or consume such oil for any purpose other than an essential use unless he shall substitute an equivalent amount of fish oil, other than Pacific Coast herring oil, seal oil, or fish oil received pursuant to a certified order, for the amount so received, whereupon the oil so substituted shall be regarded as set aside oil. Upon the delivery of a certified order to a producer the person executing the certificate shall forthwith mail to the Director of Distribution, War Food Administration, Washington 25, D. C., Ref. WFO 60, a true copy of such certificate.

(4) No person shall accept delivery of crude sardine or menhaden oil pursuant to certified orders in a total quantity in excess of four tank cars, unless specifically authorized by the Director. An application for such an authorization shall be made by letter to the Director, on or before May 20, 1944. The letter shall set forth:

(i) The number of tank cars which the applicant desires to accept delivery of pursuant to certified orders,

(ii) An estimate of the applicant's requirements for each use set forth in paragraph (a) (9) hereof, during the period from April 1, 1944, to April 1, 1945, and an estimate of his requirements for processing for each use set forth in said paragraph (a) (9), during such period, and

(iii) The amount of fish oil used by the applicant in essential uses or subjected to essential processing by him in the calendar year of 1943.

(c) *Further restrictions on set aside oil.* Except as specifically authorized by the Director:

(1) No person shall deliver set aside oil to any other person without notifying such person, in writing, prior to delivery that such oil is set aside oil;

(2) No person shall deliver set aside oil which has been processed to any person other than a distributor or a person whose business operations include an essential use; and

(3) Subject to the provisions of paragraph (b) (3) hereof, no person shall use or consume set aside oil for any purpose other than an essential use or subject such oil to any processing other than an essential processing.

(d) *Restrictions on feed manufacturers.* Except as specifically author-

ized by the Director, no feed manufacturer shall use or consume fish oil, as such, in the manufacture of any feed. Nothing in this paragraph shall be construed as prohibiting any person from using or consuming vitamin feeding oil, manufactured in compliance with the provisions of paragraph (e) hereof, in the manufacture of feed for poultry.

(e) *Restrictions on the manufacture of vitamin feeding oils.* Except as specifically authorized by the Director:

(1) No person shall use or consume fish oil in the manufacture of vitamin feeding oils unless such feeding oils are to be used for poultry feeding;

(2) No person shall use or consume any fish oil in the manufacture of any vitamin A feeding oil to be used for poultry feeding;

(3) No person shall use or consume any fish oil in the manufacture of any vitamin D feeding oil to be used for poultry feeding unless the vitamin feeding oil is fortified by him to contain not less than 400 A. O. A. C. units of vitamin D per gram; and

(4) No person shall use or consume any fish oil in the manufacture of vitamin A and D feeding oil to be used for poultry feeding unless the vitamin feeding oil is fortified by him to contain not less than 400 A. O. A. C. units of vitamin D per gram.

(f) *Restrictions on seal oil.* Except as specifically authorized by the Director:

(1) No person shall use or consume seal oil in the manufacture of any product except natural leather; and

(2) No person shall process seal oil except in such a manner as to render it suitable for use or consumption in the manufacture of natural leather.

(g) *Restrictions on Pacific Coast herring oil.* Except as specifically authorized by the Director:

(1) No person shall use or consume Pacific Coast herring oil except in the manufacture of water-insoluble metallic soaps, natural leather, lubricants, or metal-working compounds, other than core oils; and

(2) No person shall process Pacific Coast herring oil except in such a manner as to render it suitable for use or consumption in the manufacture of water-insoluble metallic soaps, natural leather, lubricants, or metal-working compounds, other than core oils.

(h) *Restrictions on stock pile oil.* No person, who after the effective date of this amendment purchases stock pile oil from a governmental agency, shall use, consume, process, or deliver such oil except as specifically authorized by the Director.

(i) *Applications for authorizations.* Every person requiring an authorization to use or consume fish oil shall file an application therefor on Form FDA-478, or such other form or forms as the Director may prescribe, with the Director of Distribution, War Food Administration, Washington 25, D. C., Ref. WFO 60. The Director may prescribe in each authorization the period of time in which the authorization shall be effective. No person shall take any action pursuant

FEDERAL REGISTER, Friday, May 5, 1944

to, or in reliance on, an authorization which has expired.

(j) *FDO-42.* The restrictions of this order shall be construed as being supplemental to the restrictions of Food Distribution Order 42, as amended.

(k) *Records and reports.* (1) Every person who in any calendar quarter uses or consumes more than 6,000 pounds of fish oil shall:

(i) Fill out and file, for each month of such quarter, Bureau of the Census Form BM-1, or such other form or forms as may be prescribed by the Director, with the Bureau of the Census, Washington 25, D. C. The report for each month shall be filed on or before the fifteenth day of the succeeding month; and

(ii) Fill out and file for such quarter, Bureau of the Census Form BM-2, or such other form or forms as may be prescribed by the Director, with the Bureau of the Census, Washington 25, D. C. The report for each quarter shall be filed on or before the fifteenth day of the second month of the succeeding quarter. Nothing in this paragraph (k) (1) shall be construed as requiring any person to file more than one form BM-1 for any month, or more than one form BM-2 for any quarter. The provisions of Food Distribution Order 37, as amended, shall apply to the filling out of Form BM-1 with respect to sperm oil.

(2) The Director shall be entitled to obtain such information from, and require such reports and the keeping of such records by, any person, as may be necessary or appropriate, in the Director's discretion, to the enforcement or administration of the provisions of this order.

(3) Every person subject to this order shall, for at least two years (or for such period of time as the Director may designate), maintain an accurate record of his transactions in fish oil.

(l) *Audits and inspections.* The Director shall be entitled to make such audit or inspection of the books, records and other writings, premises or stocks of fish oil of any person, and to make such investigations, as may be necessary or appropriate, in the Director's discretion, to the enforcement or administration of the provisions of this order.

(m) *Petition for relief from hardship.* Any person affected by this order who considers that compliance herewith would work an exceptional and unreasonable hardship on him, may file a petition for relief in writing with the Director, addressed as follows: Director of Food Distribution, War Food Administration, Washington 25, D. C., Ref. WFO 60. Such petition shall set forth all pertinent facts and the nature of the relief sought. The Administrator of this order shall then act upon the petition. In the event that the petitioner is dissatisfied with the action taken by the Administrator of this order, he may request a review of such action by the Director whose decision with respect to the relief sought shall be final.

(n) *Violations.* Any person who violates any provision of this order may, in accordance with the applicable procedure, be prohibited from receiving, making any deliveries of, or using fish oil, or any other material subject to priority or allocation control by any governmental agency. In addition, any person who wilfully violates any provision of this order is guilty of a crime and may be prosecuted under any and all applicable laws. Further, civil action may be instituted to enforce any liability or duty created by, or to enjoin any violation of, any provision of this order.

(o) *Delegation of authority.* The administration of this order and the powers vested in the War Food Administrator, insofar as such powers relate to the administration of this order, are hereby delegated to the Director. The Director is authorized to redelegate to any employee of the United States Department of Agriculture any or all of the authority vested in him by this order.

(p) *Communications.* All reports required to be filed hereunder and all communications concerning this order shall, unless instructions to the contrary are issued by the Director, or otherwise provided herein, be addressed to the Director of Distribution, War Food Administration, Washington 25, D. C., Ref. WFO 60.

(q) *Effective date.* This amendment shall become effective 12:01 a. m., e. w. t., May 1, 1944. However, with respect to violations of War Food Order 60, or rights accrued or liabilities incurred thereunder, prior to said date, said War Food Order 60 shall be deemed in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, or liability.

NOTE: All reporting and record-keeping requirements of this order have been approved by, and subsequent reporting and record-keeping requirements will be subject to the approval of, Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; E.O. 9392, 8 F.R. 14783)

Issued this 1st day of May 1944.

WILSON COWEN,
Assistant War Food Administrator.

[F. R. Doc. 44-6280; Filed, May 2, 1944;
3:17 p. m.]

[WFO 98, Amdt. 1]

PART 1468—GRAIN

LIMITATIONS ON SALE, TRANSPORTATION, AND
USE OF CORN

War Food Order 98 (9 F.R. 4379),
§ 1468.8, is amended as follows:

1. By amending (a) (2) thereof to read as follows:

(2) "Corn" means yellow, white, or mixed shelled corn, ear corn, or snap corn, of the dent or flint varieties, whole or crushed or mixed with other whole

grains, excluding, however, seed corn, popcorn, grain sorghums, sweet corn, broom corn, corn used for canning purposes, and packaged corn meal, corn grits, or other corn products packaged for human consumption.

2. By amending (b) (2) thereof to read as follows:

(2) No person shall accept corn located in the designated area for transportation or delivery to any person other than Commodity or its designated agent. This provision shall not be construed to prevent any person or his agent from transporting corn owned by him from any point within the designated area to another point within such area: *Provided* Such corn does not at any time move outside of the designated area.

3. By amending (c) (3) thereof to read as follows:

(3) Any feeder, upon application to the County committee for the county where corn owned by him is located, may be authorized by such committee, in writing, to transport such corn to any point within a county adjoining the designated area for the purpose of feeding livestock or poultry owned by him.

4. By amending (i) thereof to read as follows:

(i) *Request for relief from hardship.* Any person located in the designated area who considers that compliance herewith would work an exceptional or unreasonable hardship on him may file a request for relief with the County committee for the county in which such person's establishment is located. Any other person affected by this order who considers that compliance herewith would work an exceptional or unreasonable hardship on him may file a request for relief with the Chief of the Agricultural Adjustment Agency, Washington 25, D. C. All requests shall be in writing and shall set forth all pertinent facts and the nature of the relief sought. Such requests shall be acted upon by the Chief of AAA or any employee of the Agricultural Adjustment Agency designated by him.

This amendment shall become effective at 12:01 a. m., c. w. t., May 4, 1944.

With respect to violations, rights accrued, liabilities incurred, or appeals taken under War Food Order No. 98 prior to the effective date of this amendment, all provisions of said War Food Order No. 98 in effect prior to this amendment shall be deemed to remain in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, liability, or appeal.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; E.O. 9392, 8 F.R. 14783)

Issued this 3d day of May, 1944.

GROVER B. HILL,
First Assistant War Food Administrator.

[F. R. Doc. 44-6357; Filed, May 4, 1944;
11:19 a. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Bureau of Animal Industry

Subchapter D—Exportation and Importation of Animals and Animal Products

[B. A. I. Order 378]

PART 91—INSPECTION AND HANDLING OF LIVESTOCK FOR EXPORTATION (EXCEPT TO MEXICO)

Under the authority conferred upon the Secretary of Agriculture by the Act of Congress approved May 29, 1884, as amended (21 U.S.C., 1940 ed., Secs. 112-115 and 117-119), the Act of Congress approved August 30, 1890, as amended (21 U.S.C., 1940 ed., Secs. 101-105), the Act of Congress approved March 3, 1891, as amended (45 U.S.C., 1940 ed., Secs. 75-76), and the Act of Congress approved February 2, 1903, as amended (21 U.S.C., 1940 ed., Secs. 111-113, 120-122), Part 91 of Title 9, Chapter I, Subchapter D, Code of Federal Regulations, as amended [B. A. I. Order 322, as amended], is hereby further amended, effective July 1, 1944, to read as follows:

Sec.

- 91.1 Definitions.
- 91.2 Animals to be handled in compliance with regulations.
- 91.3 Ports of export.
- 91.4 Inspection and certification.
- 91.5 Diagnostic tests for dairy and breeding cattle.
- 91.6 Disinfection of cars and other conveyances.
- 91.7 Rest and inspection before embarkation.
- 91.8 Accommodations for humane treatment of animals on vessels.
- 91.9 Headropes and halters.
- 91.10 Space on vessels.
- 91.11 Crates and portable stalls.
- 91.12 Hatches.
- 91.13 Upper-deck fittings.
- 91.14 Protection from heat of boilers and engines.
- 91.15 Ventilation.
- 91.16 Feed and water.
- 91.17 Attendants.
- 91.18 Lighting.
- 91.19 Alleyways.
- 91.20 Stanchions.
- 91.21 Beams.
- 91.22 Roofs.
- 91.23 Flooring.
- 91.24 Footlocks.
- 91.25 Outside planking.
- 91.26 Breast, front, and foot boards.
- 91.27 Rump boards.
- 91.28 Division boards.
- 91.29 Troughs and hayracks.
- 91.30 Defective fittings.
- 91.31 Cleaning and disinfecting vessels, fittings, utensils, and equipment.

AUTHORITY: §§ 91.1 to 91.31, inclusive, issued under 23 Stat. 32, as amended, 26 Stat. 416, as amended, 32 Stat. 792, as amended; 21 U.S.C. 101-122; 26 Stat. 883, as amended; 46 U.S.C. 466a, 466b.

§ 91.1 *Definitions.* Whenever in these regulations the following words, names, or terms are used they shall be construed as follows:

(a) "Foreign country": Any country other than Mexico.¹

¹ Exports to Mexico are governed by special regulations contained in another order of this Department.

(b) "Department": The United States Department of Agriculture.

(c) "Bureau": The Bureau of Animal Industry of the Department.

(d) "Chief of Bureau": Chief of the Bureau of Animal Industry.

(e) "Inspector": An inspector of the Bureau.

(f) "Animals": Horses, cattle, sheep, swine, and goats.

(g) "Horses": Horses, mules, and asses.

(h) "Roofing paper": Any saturated roofing paper of a grade known to the trade as 30-pound roofing paper.

(i) "Stanchion": Post or other fixed upright support.

§ 91.2 *Animals to be handled in compliance with regulations.* No animals covered by these regulations shall be exported to a foreign country except in compliance with the provisions thereof.

§ 91.3 *Ports of export.* The following are designated ports of export for animals at which inspection will be maintained: Portland, Me.; Boston, Mass.; New York, N.Y.; Philadelphia, Pa.; Baltimore, Md.; Newport News and Norfolk, Va.; Jacksonville, Port Everglades, and Miami, Fla.; Mobile, Ala.; New Orleans, La.; Galveston and Houston, Tex.; San Diego, Los Angeles, and San Francisco, Calif.; Portland, Oregon; and Seattle and Tacoma, Wash. Other ports may be designated in special cases by the Chief of Bureau.

§ 91.4 *Inspection and certification.* No animals shall be exported to any foreign country until they have been inspected in the manner prescribed by the Chief of Bureau and found to be free from evidence of communicable disease or exposure thereto, and until they have been tested in the manner provided in § 91.5, if they are of a class required by that section to be tested. If, upon inspection, they are found to be free from evidence of communicable disease or exposure thereto, they shall be accompanied with a certificate to that effect, signed by a Bureau inspector.

§ 91.5 *Diagnostic tests for dairy and breeding cattle.* No dairy or breeding cattle shall be exported to a foreign country unless they are shown by proper certificate to have passed a negative test for tuberculosis and, if they are more than 6 months old, a negative blood test for brucellosis (Bang's disease) within 30 days of the date of shipment: *Provided, however,* That the test for brucellosis may be waived in respect to animals that have been officially vaccinated as calves within the previous 12 months: *And provided further,* That either or both of these tests may be waived upon presentation by the exporter to the inspector at the port of embarkation of a written permit by an authorized representative of the foreign government to ship a specified lot of cattle to that particular country without said tests.

The tuberculin test may be applied by a Bureau inspector or by a veterinarian accredited by the Bureau, in which case the certificate shall be endorsed by the inspector in charge of disease-eradication work in the State of origin. Blood

tests for brucellosis shall be made in laboratories recognized by the Bureau and State authorities for that purpose, and the certificate shall be issued or endorsed by the inspector in charge of disease-eradication work in the State of origin.

§ 91.6 *Disinfection of cars and other conveyances.* No animals intended for export to a foreign country shall be transported in cars or other conveyances which have been used in the transportation of livestock since they were last cleaned and disinfected: *Provided, however,* That express cars or other conveyances not regularly used for the transportation of livestock need not be so disinfected. If such animals are confined in crates or portable stalls, these either shall be new and previously unused or shall be cleaned and disinfected before receiving such export animals.

§ 91.7 *Rest and inspection before embarkation.* No animals shall be loaded upon a vessel for exportation until they have been allowed at least 5 hours' actual rest in suitable quarters at the port of embarkation: *Provided, however,* That such period of rest will not be required if the animals were transported thereto in cars in which there was opportunity to rest and proper feed and water were provided, or when the animals are to be stowed in box stalls aboard ship.

All animals shall remain at the port of export a sufficient length of time and under conditions to afford proper inspection during daylight. The place of detention for rest and inspection shall be subject to approval of the inspector. Movement of animals from the holding yards, pens, or stables to the transporting vessel, and their loading, storing, and tying, shall be accomplished in a manner satisfactory to the inspector.

§ 91.8 *Accommodations for humane treatment of animals on vessels.* Owners or masters of vessels carrying animals from the United States to a foreign country shall provide for such animals food and water, space, ventilation, fittings, and other facilities as herein-after set forth: *Provided, however,* That shipments of animals to points in nearby countries involving not more than 72 hours in transit shall be subject only to such requirements as to space, ventilation, fittings, food, and water supply as the Chief of Bureau shall prescribe. Such owners or masters shall not accept for transportation any animal that in the judgment of the inspector is in an unfit condition to withstand the rigors of such transportation.

§ 91.9 *Headropes and halters.* Halters, ropes, or other suitable equipment satisfactory to the inspector shall be provided for the handling and tying of horses and cattle.

§ 91.10 *Space on vessels.* Except as specified in § 91.8, space on vessels for the various species of animals shall be as follows:

(a) *Horses.* Space for horses shall be not less than 6 feet 3 inches from roof or beams overhead to floor underfoot and shall be at least 8 feet in depth, except that upon approval of the inspector

stalls 7 feet deep may be allowed for medium-sized horses. Single stalls shall be not less than 2½ feet wide. Not less than 20 square feet shall be allowed for each horse loose in pen, and for every large horses there shall be at least 27 square feet.

Subject to the approval of the inspector as many as four horses, or as many as seven horses weighing not more than 500 pounds each, may be shipped in pens not less than 10 by 8 feet in size. Mares in foal and stallions, however, shall be shipped only in separate stalls, which shall be not less than 8 feet deep by 3 feet wide and for mares due to foal en route shall be not less than 8 feet deep by 5 feet wide and readily accessible.

Extra stalls suitably located shall be provided in each compartment or on decks where horses are carried so that adequate hospital space can be made available for any that become sick or disabled aboard ship. The number of such stalls shall be as follows: One for the first 4 to 10 horses shipped, another for any number in excess of 10 up to and including 25, and still another for each additional 25 horses or fraction thereof.

(b) *Cattle.* Space for cattle shall be not less than 8 feet in depth and 6 feet from roof or beams overhead to flooring underfoot, except that where floors are raised over pipes and similar obstructions a height of not less than 5 feet 6 inches may be permitted at the discretion of the inspector. No more than four cattle weighing over 850 pounds each shall be shipped in each pen, except at the ends of rows, where five may be allowed together. In such pens there shall be at least 20 square feet of space for each animal. When any such pen includes stanchions, sounding tubes, ventilators, and other obstructions, there shall be not less than 24 square feet of free space for each animal.

Single stalls for cattle shall be not less than 8 feet in depth by 3 feet in width, and larger stalls shall be provided when required by the inspector for cows in advanced pregnancy and for large dairy or breeding cattle. Cows in advanced pregnancy and bulls shall be shipped only in separate stalls. For cows that are due to calve en route, the stalls or pens shall be not less than 5 by 8 feet in size and so located as to be easily accessible.

Calves and yearlings may be stowed at the discretion of the inspector.

(c) *Sheep, goats, and swine.* Space for these animals shall be not less than 3 feet in height. For each animal the space provided shall be at least 1 foot greater in length and breadth than the animal itself, with a 50-percent increase for animals in advanced pregnancy. Double-deck pens shall not exceed 20 x 8 feet in size. Lambs, kids, and pigs may be stowed at the discretion of the inspector.

§ 91.11 *Crates and portable stalls.* Animals may be carried in crates or portable stalls which meet the space requirements of § 91.10 and are so constructed as to afford comfort and security. All crates and portable stalls shall be equipped for the feeding and watering of the animals carried therein, and

when placed on exposed decks the roofs of same shall conform with the requirements of § 91.22. Crates and portable stalls shall be subject in all cases to the approval of the inspector at the port of embarkation.

§ 91.12 *Hatches.* Hatches above animals shall be kept clear at all times, no feed for the animals or freight of any kind being placed thereon.

Animals may be placed on hatches on exposed decks, but the pens or stalls shall be lashed down securely to the satisfaction of the inspector.

Animals may be placed on hatches on underdecks provided the height requirements of § 91.10 can be complied with, but sufficient space shall be left clear on such hatches for passageway across ship and for brow.

On all hatches on which animals are carried and under which hay and feed are stowed, sufficient space shall be left clear for the proper removal and handling of such hay and feed. Such hatches shall be watertight.

§ 91.13 *Upper-deck fittings.* Animals may be carried on upper decks in space abutting the outside rails or bulwarks only if such rails or bulwarks are 3 feet or more in height from the deck and are of sufficient strength to hold the necessary fittings securely, or if the space available is sufficient to permit securing the required fittings to provide the necessary strength. When animals are carried on upper decks, bulkheads shall be erected at all unprotected ends of stalls.

§ 91.14 *Protection from heat of boilers and engines.* No animals shall be stowed along the alleyways by engine and boiler room unless the sides of said engine and boiler rooms are covered by a tongue-and-groove tight sheathing, making a 3-inch air space: *Provided, however,* That on ships powered with internal-combustion engines this sheathing will not be required.

§ 91.15 *Ventilation.* Each underdeck compartment on which animals are being transported shall be equipped with a system of ventilation either natural or mechanical that will furnish a complete change of air in the compartment every 5 minutes. When the latter method is employed, a sufficient number of portable blowers of approved type shall be carried to provide ventilation in case of break-down. Natural ventilation may be procured through ventilators, hatches, doors, and portholes when approved by the inspector.

§ 91.16 *Feed and Water.* For animals embarked for a voyage which on an average is of more than 20 hours' duration, there shall be provided to the satisfaction of the inspector sufficient amounts of suitable feed and fresh water, and proper accommodation shall be provided on board for distribution of the water and for stowage of the feed so that it shall not be unduly exposed to the weather at sea.

§ 91.17 *Attendants.* Each vessel on which livestock are embarked shall carry one man who is experienced in the handling of the particular species and a

sufficient number of attendants to insure proper care of the animals.

§ 91.18 *Lighting.* All vessels carrying animals shall be equipped to provide adequate light at all times for the proper attending of all animals.

§ 91.19 *Alleyways.* Alleyways running fore and aft that are used for feeding, watering, and loading animals, including horses in box stalls, shall have a minimum width of 3 feet, but when horses are stowed in other than box stalls the minimum width of alleyways shall be 4 feet: *Provided, however,* That for a distance not to exceed 12 feet at the end of alleyways in bow and stern of ship, and where obstructions less than 3 feet in length occur, the width may be reduced to a minimum of 18 inches. A sufficient number of athwartship alleyways at least 18 inches in width in the clear shall be provided to afford ready access to scuppers and to ends of alleyways running fore and aft except that on exposed decks where scuppers and the ends of fore and aft alleyways are readily accessible athwartship alleyways may be dispensed with.

§ 91.20 *Stanchions.* Stanchions shall be provided for all stalls and pens for horses, cattle, sheep, goats, and swine. Metal stanchions will be acceptable if equal in strength and security as hereinafter provided for wooden stanchions.

(a) *Horses and cattle.* Rail stanchions shall be of not less than 4" x 6" lumber set 5 feet apart on centers secured to ship's rail or bulwark with 5/8" hook bolts or collars, and with heels properly braced to sheer streak, or waterway. Inboard stanchions of the same dimensions shall be set in line with the rail stanchions and properly braced. Stanchions shall be securely fastened to roof beams by means of cleats 2" x 4" x 8" in size butted against both sides of stanchions and also by means of angle braces not less than 1" x 6" x 24" in size properly placed and nailed to secure each stanchion to its beam. Stanchions affixed to bulwarks shall be chucked down with pieces not less than 2" x 3" x 8" lumber. On open-rail ships, spaces between the rails shall be blocked out to permit the affixing of outside planking. If supplementary stanchions are required for rump boards, these shall be not less than 3" x 4" in size properly cleated to beam and deck.

Stanchions on underdecks shall be secured by appropriate bracing, cleating, and wedging and set not more than 7 feet 6 inches apart on centers, except that this spacing may be increased to 10 feet when 3" x 10" breast boards are used.

(b) *Sheep, goats, and swine.* Stanchions for single- or double-tier pens for these animals shall be of not less than 3" x 4" lumber set at no greater distance than 5 feet on centers and secured in the same manner as prescribed in this regulation for horses and cattle.

§ 91.21 *Beams—(a) Horses and cattle.* Beams shall be of not less than 3" x 6" lumber. Those at the ends of fittings and each alternate one shall extend across the ship's beam or abut

against permanent deck fittings. The intermediate short beams shall not extend beyond the inner edge of the roof.

(b) *Sheep, goats, and swine.* When two tiers of pens are constructed on upper or exposed decks, beams shall be provided as specified in this regulation for horses and cattle. Beams of not less than 3" x 4" lumber bolted to stanchions with $\frac{5}{8}$ " bolts shall be provided to support the roof of single-tier pens on exposed decks and the floor of double-tier pens on all decks. Beams supporting upper-tier pens shall be braced in centers by uprights of not less than 2" x 4" lumber extending from deck to under side of beams.

§ 91.22 *Roofs.* All pens for carrying animals on exposed decks shall be roofed with not less than 1 $\frac{1}{8}$ " lumber, tongued and grooved or square-edged, extending from outside planking to 2 feet beyond the line of breast boards: *Provided, however,* That if square-edged lumber is used, it shall be properly covered with roofing paper.

§ 91.23 *Flooring*—(a) *Horses and cattle.* Flooring shall be laid athwartship and secured by placing ends beneath the under side of foot and rump boards or under a 2" x 2" strip nailed along these boards. Floors may be either of two types, flush or raised. The flush type shall be of not less than 1" lumber laid flat on the deck. The raised type shall be of not less than 2" lumber nailed to scantlings of at least 2" x 3" dimensions laid 2 feet 6 inches apart. If desired, flooring may be laid in portable sections. Flooring will not be required on ships with wooden decks provided footlocks are secured to the deck. Cement or composite material diagonally scored one-half inch deep may be used on iron decks instead of wooden flooring if the footlocks are molded in the same and bolted to the deck.

(b) *Sheep, goats, and swine.* Flooring for these animals shall be the same as prescribed in this regulation for horses and cattle except that raised flooring need not be greater than 1 inch in thickness.

§ 91.24 *Footlocks*—(a) *Horses and cattle.* There shall be four footlocks of 1" x 4" lumber laid fore and aft with flat side down, and so placed as to provide in-between spaces of 12, 14, 26, and 14 inches, beginning at inside of footboard. They shall be well secured with nails of a length that will permit 1-inch clinch in 1-inch flooring and 2-inch penetration in 2-inch flooring.

(b) *Sheep, goats, and swine.* Footlocks for these animals shall be of not less than 1" x 2" lumber, four to each pen, equally distributed and laid in the manner prescribed in paragraph (a) of this section for horses and cattle.

§ 91.25 *Outside planking.* All pens for carrying animals on exposed decks shall be provided with outside planking of not less than 1 $\frac{1}{8}$ " tongue-and-groove lumber laid fore and aft of ship driven tightly together and securely nailed to

backs of stanchions in a manner to cover all open spaces properly: *Provided, however,* That during warm weather the top-course planking may be left off in order to allow a free circulation of air.

§ 91.26 *Breast, front, and foot boards*—(a) *Horses and cattle.* Except as provided in § 91.8, all stalls and pens shall be equipped with breast boards of not less than 2" x 10" dressed lumber securely nailed to the stanchions. Where butting occurs the joints are to be on the stanchions and shall be covered with metal plates 3" square or 5" in diameter and not less than $\frac{1}{4}$ " in thickness. A $\frac{5}{8}$ " bolt shall then be passed through the plate, joint, and stanchion and securely fastened with a nut. All breast boards shall have 1" holes bored through them at proper distances for tying animals. Breast boards shall be provided with removable sections in order that animals may be loaded into and removed from stalls and pens. All stalls and pens shall be provided with foot boards of not less than 2" x 10" lumber securely nailed or bolted to stanchions.

(b) *Sheep, goats, and swine.* Front boards shall be of not less than 1" x 6" pieces appropriately spaced and extending to the proper height for these species of animals. Provision shall be made for removing a section of front boards to allow entry of animals into pens and removal therefrom.

§ 91.27 *Rump boards*—(a) *Horses and cattle.* Rump boards shall form a solid wall at least 4 feet 6 inches high and shall be of lumber not less than 1 $\frac{1}{8}$ " thick if tongued and grooved or 2" if square-edged. Where deck is clear of obstructions rump boards may be set on inside of rail stanchions. When this is not possible, sections so affected may be brought forward to clear such obstructions and shall be fastened to stanchions provided for this purpose. In lower decks, where ship's construction so justifies, rump boards may be affixed to 2" x 6" wooden pieces set the same as prescribed for stanchions. Rump boards may be formed by filling spaces between cargo battens. Rump boards in stalls or pens built alongside hatches need be carried down only to line of coaming.

(b) *Sheep, goats, and swine.* Pens for these animals on all exposed decks shall be provided with rump boards of the specified size built to a height of 2 feet 6 inches.

§ 91.28 *Division boards*—(a) *Horses and cattle.* Division boards shall be used to separate all stalls and pens and to close the sides of same at the ends of rows. They shall be used in sets of four boards of 2" x 10" dressed lumber separated by 3-inch spacers, shall extend from the rump boards to the inboard stanchions, and shall be fitted into appropriate channels or slots at both ends in a manner that will permit their ready removal.

(b) *Sheep, goats, and swine.* Division boards and those forming ends of

pens shall be the same as prescribed for front boards for these animals in § 91.26.

§ 91.29 *Troughs and hayracks.* All stalls and pens shall be equipped with proper troughs for feeding animals as hereinafter provided. Racks or nets furnished for feeding hay shall be of a type acceptable to the inspector.

(a) *Horses and cattle.* Troughs may be of metal or wood either removable or fixed. The space between the first footlock and the footboard may be utilized for feeding cattle provided a 2" x 4" piece is affixed along the top surface of said footlock so that it, together with the footboard and the battens, will form an enclosure. When wooden troughs are used an adequate supply of buckets shall be provided for the proper watering of the animals.

(b) *Sheep, goats, and swine.* Pens for these animals shall have feed troughs not less than 8 inches wide and proper receptacles for watering. Pens for sheep and goats should also have ample hay racks suitable for these animals.

§ 91.30 *Defective fittings.* If previously used fittings are employed, any portion thereof found by the inspector to be worn, decayed, unsound, or otherwise defective shall be replaced.

§ 91.31 *Cleaning and disinfecting vessels, fittings, utensils and equipment.* All parts of vessels, fittings, utensils, and equipment used in the loading, stowing or other handling of animals in compliance with the provisions of this order shall first be thoroughly cleaned and then disinfected with a Bureau approved disinfectant under the supervision of an inspector before being again used for or in connection with the transportation of animals from United States ports. Such disinfection of halters, ropes, and similar equipment used in handling and tying the animals shall be by immersion in the approved disinfectant.

Done at Washington, D. C., this 3d day of May 1944.

Witness my hand and the seal of the Department of Agriculture.

[SEAL] CLAUDE R. WICKARD,
Secretary of Agriculture.

[F. D. Doc. 44-6325; Filed, May 8, 1944;
3:12 p. m.]

TITLE 10—ARMY: WAR DEPARTMENT

Chapter V—Military Reservations and National Cemeteries

PART 57—SERVICE CLUBS, HOSTESSES AND LIBRARIANS

MISCELLANEOUS AMENDMENTS

Sections 57.10, 57.11 (d) (7 F.R. 8628), 57.11a and 57.12 (d) (7 F.R. 8628, 8 F.R. 15927) are amended as follows. These regulations are also contained in Army Regulations 850-80, 26 August 1942, as amended by C 7, 24 April 1944, the par-

ticular paragraphs being shown in brackets at end of sections.

§ 57.10 Service command headquarters. Service command librarians may be appointed by commanding generals of service commands, and assigned to duty for the purpose of supervising library personnel and the technical operation of libraries within the service command. [Par. 14]

§ 57.11 Service club. Hostesses and librarians may be employed in service clubs and libraries from appropriated funds to the extent available, not to exceed the following:

* * *

(d) *Other type service clubs.* Personnel may be allocated to such service club by commanding generals of service commands, not to exceed one hostess (recreational and social) and one librarian. [Par. 15]

§ 57.11a Library. The employment of civilian librarians from appropriated funds is authorized to the extent such funds are available for the conduct of library service at:

(a) General hospitals.
 (b) Post hospitals and posts, camps, and stations as indicated in subparagraphs (1), (2), and (3) below, on the recommendation of the commanding officer of the post, with the approval of the commanding general of the service command, in accordance with limitations prescribed from time to time by the Commanding General, Army Service Forces, upon the recommendation of the Director, Special Services Division, for librarians employed from appropriated funds. Approval by the commanding general of the service command is not required if payment of the camp librarian is made from nonappropriated funds.

(1) Post hospitals having 1,000 beds or more.

(2) Post, camps, and stations having a total strength of 2,500 men or more, provided no librarian has been appointed under § 57.11.

(3) Posts, camps, and stations where justified by reason of isolation and lack of other recreational facilities.

(c) [Rescinded.]

(d) [Rescinded.] [Par. 15½]

§ 57.12 Selection and appointment. * * *

(d) Prior to selecting a hostess or librarian, the commanding general making the selection will satisfy himself as to the loyalty, integrity, and discretion of such hostess or librarian and cause a physical examination to be conducted by an officer of the Medical Department or the Public Health Service to insure fitness for such appointment. [Par. 16]

(R.S. 161; 5 U.S.C. 22)

[SEAL] ROBERT H. DUNLOP,
Brigadier General,
Acting The Adjutant General.

[F. R. Doc. 44-6360; Filed, May 4, 1944;
11:54 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter IX—War Production Board

Subchapter B—Executive Vice-Chairman

AUTHORITY: Regulations in this subchapter issued under sec. 2 (a), 54 Stat. 676, as amended by 55 Stat. 236 and 56 Stat. 176; E.O. 9024, 7 F.R. 329; E.O. 9125, 7 F.R. 2719; W.P.B. Reg. 1 as amended March 24, 1943, 8 F.R. 3666, 3696; Pri. Reg. 1 as amended May 15, 1943, 8 F.R. 6727.

PART 1010—SUSPENSION ORDERS

[Suspension Order S-527, Stay of Execution]

BLOOMFIELD MANUFACTURING COMPANY

The Bloomfield Manufacturing Company of Chicago, Illinois, has appealed the provisions of Suspension Order No. S-527, issued April 25, 1944 (§ 1010.527), and has requested a stay on the ground that irreparable harm would be done its business if the suspension order were not stayed. The Chief Compliance Commissioner has directed that the provisions of the suspension order be stayed pending final determination of the appeal or until further order by the Chief Compliance Commissioner. In view of the foregoing,

It is hereby ordered, That: The provisions of Suspension Order No. S-527, issued April 25, 1944, are hereby stayed pending final determination of the appeal or until further order by the Chief Compliance Commissioner.

Issued this 2d day of May 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 44-6284; Filed, May 2, 1944;
4:19 p. m.]

PART 1010—SUSPENSION ORDERS

[Suspension Order S-542]

MC KAY PLUMBING CO.

J. P. McKay, G. H. McKay, and Alice R. McKay are partners, doing business as McKay Plumbing Company, in Jackson, Mississippi. The company deals in various appliances, including refrigerators. In December, 1942, the company purchased and accepted transfer of 49 new domestic mechanical refrigerators in violation of Supplementary Limitation Order L-5-d, which prohibited accepting such transfers. Order L-5-d also required that transfer of new domestic mechanical refrigerators should be made as far as practicable through normal distributive outlets; notwithstanding this, the refrigerators which the company accepted were Stewart-Warner refrigerators, although the company had never been and was not a distributive outlet for Stewart-Warner refrigerators. The company has continued to hold the refrigerators, and has refused and still refuses to transfer them in accordance with the terms of Order L-5-d and as required by the War Production Board. The company was familiar with Order L-5-d, and its failure to comply with it constitutes a wilful violation of the order. In view

of the foregoing, it is hereby ordered, that:

§ 1010.542 Suspension Order No. S-542. (a) J. P. McKay, G. H. McKay, and Alice R. McKay, individually or as partners, doing business as McKay Plumbing Company, or otherwise, their successors or assigns, shall not sell, lease, trade, deliver, ship, or otherwise transfer, directly or indirectly, any of the 49 new domestic mechanical Stewart-Warner refrigerators acquired and now held by them, or the title to the refrigerators, except as hereafter specifically authorized in writing by the War Production Board.

(b) Nothing contained in this order shall be deemed to relieve J. P. McKay, G. H. McKay, and Alice R. McKay, individually or as partners, doing business as McKay Plumbing Company, or otherwise, their successors or assigns, from any restriction, prohibition or provision contained in any other order or regulation of the War Production Board, except insofar as the same may be inconsistent with the provisions hereof.

(c) This order shall take effect on May 3, 1944.

Issued this 26th day of April 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 44-6324; Filed, May 3, 1944;
4:10 p. m.]

PART 3289—RADIO AND RADAR

[Conservation Order L-134, Revocation]

INSTRUMENTS, VALVES AND REGULATORS USED IN INDUSTRIAL PROCESSES

Section 3289.6 Conservation Order L-134 is revoked. This revocation, however, does not affect any liability incurred under the order. A manufacturer of products which have been subject to the restrictions of this order may, at his option, supply products made in conformity with the order or products made free of the restrictions of the order in filling purchase orders placed with him before May 3, 1944. If a customer cancels a previous order, and places another order on or after May 3, 1944, the latter is a new order even though it is intended to replace the previous order. Furthermore, if a customer on or after May 3, 1944, changes an existing purchase order so as to call for specifications previously prohibited by Conservation Order L-134, or makes a change in his purchase order which would interrupt or disrupt the manufacturer's production in process or planned production, any such change operates as a cancellation of the old order and the placing of a new order.

Issued this 3d day of May 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 44-6323; Filed, May 3, 1944;
4:10 p. m.]

Chapter XI—Office of Price
Administration

PART 1315—RUBBER AND PRODUCTS AND
MATERIALS OF WHICH RUBBER IS A
COMPONENT

[RO 1E.¹ Amdt. 8]

MILEAGE RATIONING: TIRE REGULATIONS FOR
THE TERRITORY OF HAWAII

A rationale accompanying this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Ration Order 1E is amended in the following respects:

1. Sections 3.2 (a) (2), 4.2, 4.3, 4.4 (a), 4.5 (a) and (b), 6.1, 6.2 (a) and (b), 6.3 (a) and (c), 6.4 (a), (b), (c) (2) and (e), 6.5 (a), (b), and (c), 7.3 (a) and (b), and 7.4 are amended by inserting the word "new" before the word "tube" or "tubes" wherever the word "tube" or "tubes" appears therein.

2. The present section 3.2 (d) is redesignated as 3.2 (d) (1) and section 3.2 (d) (2) is added to read as follows:

(2) No Board may issue a certificate for a used tube.

3. The eligibility table in section 4.2 (c) is amended by deleting the words "150 miles per month or less" and the word "used".

4. Section 4.6 is amended to read as follows:

SEC. 4.6 Eligibility of recappers for curing tubes. A recapper may file an application for new tubes to be used solely in recapping. He must establish that he does not have more than one serviceable air bag or tube of the required size for each mold operated by him, and that the new tube applied for is necessary to the operation of the mold.

5. Section 6.2 (c) is amended to read as follows:

(c) **Temporary transfer, mounting and use of used tires.** A person may temporarily transfer, without certificate, used tires to another person who may mount and use them to:

(1) Replace a tire that is being repaired or recapped;

(2) Move a wrecked, disabled or repossessed vehicle to a garage or other place of safety or storage;

(3) Move vehicles held for resale from one sales premises to another;

(4) Move any house trailer or mobile eating establishment to a site for housing or business purposes.

Such tires shall be returned to the transferor within three (3) days after the purpose for which the tires were transferred is accomplished.

6. Section 6.7 (k) is added to read as follows:

(k) **Transfer and mounting of used tubes.** Any person may transfer, acquire, mount, use, alter or change the physical location of used tubes without certificate or authorization.

*Copies may be obtained from the Office of Price Administration.

¹ 8 F.R. 12434, 13920, 15378, 17566, 17223; 9 F.R. 727.

No. 90—2

7. Section 6.3 (c) is amended to read as follows:

(c) **Temporary transfers.** Every person transferring tires temporarily pursuant to section 6.2 (c) shall keep a record showing:

(1) The purpose for which the transfer is made;

(2) The serial number of the tires transferred and the tires temporarily replaced, if any;

(3) The date of such transfer;

(4) The name and address of the person to whom the transfer is made;

(5) The date the tire is returned.

8. Section 7.5 is amended to read as follows:

SEC. 7.5 Preservation and filing of records. Any person affected by this order shall keep and file such additional records and reports as the Office of Price Administration may require. Any record required to be kept by this order, notwithstanding any amendment thereto, shall be preserved for not less than two (2) years, except that records of transfers for repair need be preserved only while the tires or new tubes to be repaired are in possession of the repairer. All records relating to tires, tubes or camelback shall be available for inspection by the Office of Price Administration.

This amendment shall become effective May 3, 1944.

NOTE: All record keeping and reporting requirements of this amendment have been approved by the Bureau of the Budget as required by the Federal Reports Act of 1942.

(Pub. Law 671, 76th Cong.; E.O. 9125, 7 F.R. 2719; WPB Dir. 1, 7 F.R. 562, Supp. Dir. 1-Q, 7 F.R. 9121, General Order No. 48, 8 F.R. 2898)

Issued this 3d day of May, 1944.

MELVIN C. ROBBINS,
Territorial Director,
Territory of Hawaii.

Approved:

JAMES P. DAVIS,
Regional Administrator.
Region IX.

[F. R. Doc. 44-6320; Filed, May 3, 1944;
12:19 p. m.]

PART 1448—EATING AND DRINKING ESTABLISHMENTS

[Rev. Restaurant MPR 5-9]

FOOD AND DRINK SOLD FOR IMMEDIATE CONSUMPTION IN LOUISIANA

Restaurant Maximum Price Regulation No. 5-9 is redesignated Revised Restaurant Maximum Regulation No. 5-9 and is revised and amended to read as follows:

In the judgment of the District Director of the New Orleans District Office of Region No. 5, the prices of food and beverages sold for immediate consumption in the Parishes of Orleans, Jefferson, St. Bernard, Washington, East Baton Rouge, Lafayette, Calcasieu, Beauregard, Vernon, Rapides, St. Mary and Tangipahoa, in the State of Louisiana, have risen and are threatening further to rise to an

extent and in a manner inconsistent with the Emergency Price Control Act of 1942, as amended, and Executive Orders 9250 and 9328.

In the judgment of the District Director of the New Orleans District Office of Region No. 5, the maximum prices established by this regulation are generally fair and equitable and are necessary to check inflation and to effectuate the purposes of the act. So far as practicable, the District Director of the New Orleans District Office of Region No. 5, gave due consideration to prices prevailing between October 1 and 15, 1941, and consulted with the representatives of those affected by this regulation.

A statement of the considerations involved in the issuance of this regulation is issued simultaneously herewith.

Therefore, in accordance with the direction of the President to take action which will stabilize prices affecting the cost of living, and under the authority therewith delegated by the President pursuant to the act of Congress approved October 2, 1942, entitled "An Act to Aid in Stabilizing the Cost of Living", 77th Congress, Second Session, and under the authority of Executive Order 9250, Executive Order 9328, and the Emergency Price Control Act of 1942, the District Director of the New Orleans District Office of Region No. 5 hereby issues this Revised Restaurant Maximum Price Regulation No. 5-9, establishing as maximum prices for food and drink sold for immediate consumption in the Parishes of Louisiana mentioned above, the prices prevailing therefor during the seven-day period beginning April 4, 1943, and ending April 10, 1943.

§ 1448.409. Maximum prices for food and drink sold for immediate consumption. Under the authority vested in the District Director of the New Orleans District Office of Region No. 5 by the Emergency Price Control Act of 1942, as amended, Executive Order 9250, Executive Order 9328, General Order No. 50, issued by the Office of Price Administration, and Region 5 Order No. 48, Revised Restaurant Maximum Price Regulation No. 5-9 (Food and Drink Sold for Immediate Consumption) which is annexed hereto and made part hereof, is issued.

AUTHORITY: § 1448.409 issued under 56 Stat. 23, 765, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681, Gen. Order 50, 8 F.R. 4808.

REVISED RESTAURANT MAXIMUM PRICE REGULATION NO. 5-9—FOOD AND DRINK SOLD FOR IMMEDIATE CONSUMPTION

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SECTION 1. Sales at higher than ceiling prices prohibited. If you own or operate a restaurant, hotel, cafe, bar, delicatessen, soda fountain, boarding house, or any other eating or drinking place, you must not offer or sell any "food item" (including any beverage) or "meal" at a price higher than the ceiling price which you figure according to the directions in the next two sections (sections 2 and 3). You may, of course, sell at lower than ceiling prices.

SEC. 2. How you figure ceiling prices for food items and meals you offered in the seven-day period from April 4, 1943, to April 10, 1943. Your ceiling price for any food item or meal which you offered in the seven-day period beginning Sunday, April 4, 1943, and ending Saturday, April 10, 1943, is the highest price at which you offered the same food item or meal in that seven-day period.

SEC. 3. How you figure ceiling prices for food items and meals you did not offer in the seven-day period. You must figure your ceiling price for a food item or meal which you did not offer during the seven-day period as follows:

(a) If you offered the same food item or meal at any time during the four weeks from March 7 to April 3, 1943, inclusive, and if you have adequate records of the prices you then charged, take as your ceiling price the highest price at which you offered that food item or meal during that four-week period.

(b) If you did not offer the food item or meal during the five-week period from March 7 to April 10, 1943, inclusive, or if you do not have adequate records of prices charged prior to the seven-day period you must proceed as follows:

(1) Determine the cost of the raw food which you use in preparing the new food item or meal.

(2) From the food items and meals for which you have already established ceiling prices, choose a food item or meal which currently has a raw food cost equal to or less than the raw food cost of the new food item or meal.

(3) Take as your ceiling price for the new food item or meal your ceiling price for the food item or meal chosen for comparison. The food item or meal chosen for such comparison should be of the same class as the new food item or meal. If, however, you can find no food item or meal of the same class, you may use for comparison the most similar food item

or meal of another class having a food cost equal to or less than your food cost for the new food item or meal. "Currently" as used herein means current on the day you figure your price.

(c) Once your ceiling price for a food item or meal has been fixed, it may not be changed except as provided in section 4.

SEC. 4. How you figure your prices for seasonal item. First, determine your ceiling price for a "seasonal food item" (defined in section 20 (e)) in accordance with the appropriate rule of sections 2 and 3 of this regulation. Thereafter, this price must be varied in proportion to any seasonal change in the raw food cost of the item; *Provided*, That in no event shall the price be higher than the ceiling price as originally determined. If in the past it has been your practice to maintain one price throughout the season, you need not vary your ceiling price according to this rule provided the ceiling price was based upon estimated average raw food cost of the item for the entire season.

SEC. 5. No ceiling price for any food item or meal to be higher than the highest ceiling price for a food item or meal of the same class in the base period. Under no circumstances are you permitted to charge a higher price for a food item or a meal than:

(a) Your highest ceiling price for food items or meals of the same class offered in the seven-day period; or

(b) The last price at which you sold the same food item or meal prior to April 4, 1943, provided you first file with the appropriate War Price and Rationing Board a menu or certified copy of a record showing the last price charged.

The provisions of this section shall not apply to seasonal dessert specialties specified in section 21A, Class 24a.

Example 1. If your highest ceiling price for any soup offered by you during the seven-day period is 15 cents, you may not offer any other soup at a higher price than 15 cents.

Example 2. You served sirloin steak in March at \$1.50. You did not serve sirloin steak during the base period. The highest price at which you can now serve sirloin steak is \$1.50.

SEC. 6. Substitution of food items in meals. If you have already determined your ceiling price for a meal you may substitute for any food item other than the entree (or main dish) in that meal any other food item of the same class without refiguring your ceiling price, provided the new food item costs you approximately as much and offers customers about the same value as the food item which it replaces. A meal becomes a "new" meal whenever the entree (or main dish) is changed or a new food item is substituted which costs you less or offers your customers lower value than the food item which it replaces, and you must therefore determine its ceiling price in accordance with the rules established by section 3.

SEC. 7. Prohibition against manipulation of meal offerings. You must not manipulate your meal offerings in a manner which will force your customers to pay more than they did during the seven-

day period. Among other things you must not

(a) Reduce the number of meals offered at prices equal to or below your "middle price" for meals of the same class without making a corresponding reduction in the number of meals offered at prices above that middle price. By "middle price" is meant the price most nearly at the mid-point of your price range for meals of the same class.

(b) Cease to offer at least as many different meals at or below the lowest price charged by you for meals of the same class on any day you select in the seven-day period, as you did on that day.

Example. If you select Friday, April 9, 1943, to determine the lowest price and the number of week-day meals offered at that price, and if on that day you offered six week-day dinners, of which two were priced at 85 cents, and one each at 90 cents, \$1.00, \$1.10, \$1.15, you must continue to offer two week-day dinners at 85 cents. Note that Sunday meals and week-day meals are meals of a different class.

SEC. 8. Evasion. (a) You must not evade or avoid the provisions of this regulation by any scheme or device whatsoever. Some, but not all, practices which will be regarded as evasive are:

(1) Dropping food items from meals, deteriorating quality or reducing quantity without making sufficient reduction in price so as to maintain the raw food cost ratio at least equal to such ratio prior to the deterioration or reduction;

(2) Withdrawing the offer, or increasing the price, of any meal ticket, weekly rate, or other arrangement by which customers may buy food items or meals at less than the prices they must pay when purchasing by item or meal;

(3) Increasing any cover, minimum, bread-and-butter, service, corkage, entertainment, check-room, parking or other special charges, or making such charges when they were not in effect in the seven-day period except that a cover or minimum charge in effect during the base period may be increased in accordance with customary practice, where it was the practice to vary the charge in accordance with the type of entertainment offered and the increase does not cause the charge to go above the highest charge made during the last twelve-month period;

(4) Requiring as a condition of sale of an item or meal the purchase of other items or meals when such condition was not in effect during the base period;

(5) Reducing the selection of meals offered at table d'hote prices when the food items which you customarily offered in such meals are being offered at a la carte prices which when added together total more than the table d'hote price for the complete meal or give your customers less value for their money.

Example 1. If you customarily offered fish on table d'hote dinners at \$1.10, you may not now offer fish a la carte and refuse to offer it on a table d'hote dinner priced at \$1.10.

Example 2. If you offered table d'hote dinners during the base period at 85 cents to \$1.25, which included dessert and beverage, you may now offer the same food item excluding dessert and beverage at 65 cents to

\$1.05, providing you also offer dessert and beverage to be served with the meals at prices which do not total more than 20 cents.

(b) However, doing any of the following things will not be considered evading the provisions of this regulation, even though you did not do any of these things during the seven-day period:

(1) You may limit your customers to one pat of butter per meal.

(2) You may reduce the quantity, or eliminate altogether, condiments (such as catsup, chili sauce, etc.) which you may have customarily placed at the disposal of your customers and which now are, or may hereafter be, subject to any rationing order or rationing regulation of the Office of Price Administration.

(3) You may reduce the amount of sugar served with each cup of coffee or tea, or each bowl of cereal, fruit, or other similar food items with which sugar is served, to, but not less than, one teaspoonful, except that less may be given if required by your available supply.

You may not, however, make the curtailment authorized in the foregoing subparagraphs and furnish these curtailed items at an additional charge. For example, if during the seven-day period you furnished catsup, you may not now discontinue furnishing this item free, and at the same time offer to furnish it for an additional charge.

SEC. 9. Rules for new proprietors. (a) If you acquire another's business after the effective date of this regulation and continue the business in the same place, you are subject to the same ceiling prices and duties as the previous proprietor. However, before acquiring another's business, you may apply to the Office of Price Administration for permission to price under paragraph (b) of this section. If such permission is granted, it may be subject to such conditions as the Office of Price Administration deems necessary.

(b) If you open an eating or drinking place after the seven-day period, you must fix ceiling prices in line with the ceiling prices of the nearest eating or drinking place of the same type as yours. If the ceiling prices so fixed are too high and threaten to have an inflationary effect on the price of food or drink, the Office of Price Administration may issue an order requiring you to reduce your ceiling prices. You are subject to the record requirements of section 12 and the posting requirements of section 13 immediately upon the opening of your place.

SEC. 10. Seasonal eating and drinking places—(a) Exempt places. If you are the proprietor of a seasonal eating or drinking place that

(1) Was not open during the base period from April 4 to 10, 1943;

(2) Receives 90 percent or more of its total annual revenue during four calendar months of the year;

(3) Is located in an area for which no maximum rent regulation has been issued;

the prices for food items and meals offered by you in that place are exempt from control.

You must not regard this exemption as relieving you from the obligations imposed upon you by General Order No.

50, and you are still subject to the provisions of section 22 of this regulation. Pursuant to this latter section the District Director will by special order establish maximum prices for any seasonal eating or drinking place which takes undue advantage of the exemption.

(b) *Non-exempt places.* If you are the proprietor of a seasonal eating or drinking place which is not exempt under the terms of paragraph (a), you must figure your ceiling prices as follows:

(1) If the place was in operation during the base period from April 4 to April 10, 1943, use the rules set forth in sections 2, 3 and 4.

(2) If the place was not in operation during the base period from April 4 to April 10, 1943, but another place of the same type and within a reasonable distance was in operation during that period, fix your ceiling prices as a new proprietor under the terms of section 9 (b).

(3) If you cannot price under subparagraphs (1) or (2) above, you must apply for a price to the New Orleans District Office of the Office of Price Administration, 708 Canal Building, New Orleans, Louisiana. Your application must be filed ten days before the date you plan to commence operations and present the following information:

(i) Your name and address.

(ii) A brief description of your business and the manner of operation.

(iii) A list showing the prices you charged during the previous season, as well as the prices you propose to charge during the coming season.

(iv) The date when you plan to commence operations.

(v) The names of two establishments similar to yours.

You may charge the prices listed if they are not disapproved by the Office of Price Administration before the date specified for the commencement of operations. That Office may at any time, after proper investigation and hearing, establish such maximum prices for your business as it deems proper.

SEC. 11. Taxes. If in the seven-day period you stated and collected the amount of any tax separately from the price you charged, you may continue to do so. You may also separately state and collect the amount of any new tax or of any increase in the amount of a previous tax on the sale of food or drink or on the business of selling food or drink, if the tax is measured by the number or price of items or meals.

SEC. 12. Records. (a) You must observe all the record-keeping and filing requirements of General Order No. 50 which are hereby made a part of this regulation by reference.

(b) *Customary records.* You must preserve all your existing records relating to your price, costs and sales. You must also continue to maintain such records as you ordinarily kept. All such records shall be subject to examination by the Office of Price Administration.

(c) *Records of the seven-day period.* You must make available for examination by any person during ordinary business hours a copy of each menu used by you in the seven-day period. If you did not use menus, you must make available for such examination a list of the high-

est prices you charged in the seven-day period.

(d) *Filing by new proprietors.* The proprietor of an eating or drinking place which was not open during the seven-day period (including newly-opened places), shall file menus or a price list in accordance with paragraph (a), (General Order No. 50), except that (1) the filing shall be for the seven-day period beginning with the first Sunday that place is open after April 4, 1943, and (2) the filing shall be made within three weeks of such first Sunday.

(e) *Future records.* Beginning with the effective date of this regulation, you must keep, for examination by the Office of Price Administration, two each of the menus used by you each day. If you do not use menus you must prepare in duplicate and preserve for such examination a record of the prices charged by you each day, except that you need not record prices which are the same as, or less than, prices you previously recorded for the same items or meals. Proprietors who operate a number of eating or drinking places in the same city, which have customarily been subject to central control, may keep the records required by this paragraph for these places at a central office or the principal place of business within the city.

SEC. 13. Posting. (a) Beginning October 5th, 1943, each menu must have clearly written on or attached to it the following statement:

All prices listed are our ceiling prices or below. By Office of Price Administration regulation, our ceiling prices are based on our highest prices from April 4, 1943, to April 10, 1943. Records of these prices are available for your inspection.

(b) If you made menus available in the seven-day period, you shall continue to make them available.

(c) In addition to the requirements in (a) and (b) you must post in a conspicuous place, preferably at or near the cash register, a sign or poster when furnished by the Office of Price Administration. You must enter after each meal or food item on this list your ceiling price for such meal or food item.

SEC. 14. Operation of several places. If you own or operate more than one eating or drinking place, you must do everything required by this regulation for each place separately.

SEC. 15. Relation to other maximum price regulations. The provisions of this regulation shall supersede other regulations, including the General Maximum Price Regulation, now or hereafter issued by the Office of Price Administration, insofar as they establish maximum prices for meals and food items sold by eating and drinking places. However, where a price charged during the base period of this regulation exceeded the maximum price established by another regulation applicable at that time, the maximum price under this regulation shall be the maximum price established by the regulation which was applicable at that time.

SEC. 16. Geographical application. This Revised Restaurant Maximum Price Regulation No. 5-9 applies to the Parishes of Orleans, Jefferson, St. Bernard, Washington, East Baton Rouge, Lafayette,

Calcasieu, Beauregard, Vernon, Rapides, St. Mary and Tangipahoa, in the State of Louisiana.

SEC. 17. Enforcement. Persons violating any provisions of this regulation are subject to the criminal penalties, civil enforcement actions, suits for treble damages and proceedings for suspension of licenses, provided for by the Emergency Price Control Act of 1942, as amended.

SEC. 18. Exempt sales. Sales by the following eating or drinking places are specifically exempt from the provisions of this regulation:

(a) Eating and drinking places located on church premises and operated in connection with special church, Sunday School and other religious occasions.

(b) Hospitals, except for food items and meals served to persons other than the patients when a separate charge is made for such food items and meals.

(c) Eating and drinking places located on board common carriers (when operated as such), including railroad dining cars, club, bar and buffet cars, and peddlers aboard railroad cars traveling from station to station.

(d) Eating and drinking places owned and operated by charitable, religious or cultural organizations, such as the United Service Organization, Red Cross or similar organizations selling food items or meals on a non-profit basis primarily to members of the Armed Forces.

(e) Bona fide fraternity or sorority houses located at a recognized school, college or university insofar as such houses sell only to members and bona fide guest of members. Whenever such houses sell to persons other than members or bona fide guests of members, such houses shall be considered for all sales an eating or drinking place within the meaning of this regulation. No such house shall be considered to be exempt within the meaning of this subparagraph, unless its members pay dues (more than merely nominal in amount), are elected to membership by a governing board, membership committee or other body, and it otherwise is operated as a fraternity or sorority house.

(f) Eating and drinking places operated by any school, college or university which is a non-profit institution (that is, where no part of the net earnings inures to the benefit of any private shareholder or individual), which sells food items or meals on a non-profit or cost basis (or as near thereto as reasonable accounting methods will permit), and substantially all sales of which are made to students, faculty members and employees of such institution. For purposes of this subparagraph, persons receiving instruction on the premises of such institution by arrangement with the War Department or Department of the Navy shall be considered students.

(g) Eating and drinking places operated on a non-profit basis by the school department of any city or town and serving food items or meals exclusively to pupils and teachers.

(h) Eating cooperatives formed by officers in the Armed Forces (as, for example, officers' mess) operated as a non-profit cooperative (where no part of the net earnings inures to the benefit of any individual), which sells food items or

meals on a cost basis (or as near thereto as reasonable accounting methods will permit), and substantially all sales of which are made to officers who are members of the cooperative.

(i) Bona fide private clubs insofar as such clubs sell only to members and bona fide guests of members. Whenever such clubs sell to persons other than members or bona fide guests of members, such clubs shall be considered for all sales an eating or drinking place within the meaning of this regulation. No club shall be considered to be exempt as a private club, within the meaning of this subparagraph, unless its members pay dues (more than merely nominal in amount), are elected to membership by a governing board, membership committee or other body, and it otherwise is operated as a private club.

No club organized after the effective date of this regulation shall be exempt unless and until it has filed a request for exemption with the New Orleans District Office of the Office of Price Administration, furnishing such information as may be required, and has received communication from such office authorizing exemption as a private club.

(j) Eating and drinking places operated on a non-profit basis by the State of Louisiana or any agency thereof.

SEC. 19. Adjustments. (a) The Office of Price Administration may adjust the maximum prices for any eating establishment under the following circumstances:

(1) The establishment is operating under such hardship as to cause a substantial threat to the continuance of its operation.

(2) It is determined with reasonable certainty that such discontinuance will result in serious inconvenience to consumers in that they will either be deprived of all restaurant service or will have to turn to other establishments that present substantial difficulties as to distance, hours of service, selection of meals or food items offered, capacity, or transportation.

(3) By reason of such discontinuance, the same meals or food items will cost the customers of the eating establishment as much or more than the proposed adjusted prices.

(b) If you are the proprietor of an eating establishment which satisfies the requirements specified above, you may apply for an adjustment of your maximum prices by submitting to the New Orleans District Office of the Office of Price Administration, 708 Canal Building, New Orleans, Louisiana, a statement setting forth:

(1) Your name and address.

(2) A description of your eating establishment including: type of service rendered (such as cafeteria, table service, etc.), classes of meals offered (such as breakfast, lunch and dinner), number of persons served per day during the most recent thirty-day period,¹ and such other information that may be useful in classifying your establishment.

(3) The reason why your customers will be seriously inconvenienced if you

¹ In counting the number of persons served, any one who was served more than once is to be counted separately for each occasion he was served.

discontinue operations.

(4) The names and addresses of the three nearest eating places of the same type as yours.

(5) A list showing your present maximum prices and your requested, adjusted prices.

(6) A profit and loss statement for your restaurant business for the most recent three-month accounting period, and a copy of your last income tax return if one was filed separately for your restaurant business.

(7) Any other information requested by the New Orleans District Director.

Applications for adjustment under this section shall be acted upon by the Director of the New Orleans District Office.

SEC. 20. Definitions and explanations.

(a) "Persons" means individual, corporation, partnership, association or other organized group of persons or legal successor or representative of any of the foregoing, and includes the United States or any agency thereof, any other government, or any of its political subdivisions, and any agencies of any of the foregoing.

(b) "Meal" means a combination of food items sold at a single price. Examples of meals are a five-course dinner, a club breakfast, a blueplate special. Two or more kinds of food which are prepared or served to be eaten together as one dish are not a "meal". Examples of such dishes are: Ham and eggs, bread and butter, apple pie and cheese.

(c) "Offered" means offered for sale and includes the listing or posting of prices for items and meals even though the items and meals so offered were not actually on hand to be sold.

(d) "Food item" means an article or portion of food (including beverages) sold or served by an eating or drinking place for consumption in or about the place or to be taken out for eating without charge in form or additional preparation. It includes two or more kinds of food which are prepared or served to be eaten together as one dish, such as ham and eggs, bread and butter, apple pie and cheese.

(e) "Seasonal food item" means a food item (including beverage) not generally offered for sale throughout the year and normally available in quantity only during certain seasonal production periods of each year. Examples are: certain shell-fish such as oysters; certain fresh fish such as salmon, trout and shad; certain vegetables such as summer squash, and certain fruits such as berries and melons.

(f) Unless the context otherwise requires, the definitions set forth in section 302 of the Emergency Price Control Act of 1942 and in the General Maximum Price Regulation, issued by the Office of Price Administration, shall apply to other terms used herein.

SEC. 21. Classes of food items and meals. (See definition of "food item" and "meal" contained in section 20.)

(a) *The classes of food items.*

BREAKFAST ITEMS

1. Fruits, fruit juices and vegetable juices.
2. Cereals.
3. Entrees: egg and combination egg dishes served at breakfast.
4. Entrees: meat and meat combination dishes served at breakfast.

5. Entrees: all other dishes served at breakfast.
6. Breads, rolls, buns, Danish-pastries, etc., served at breakfast.
7. All other breakfast dishes, including jams, jellies and preserves.

OTHER ITEMS

8. Appetizers, except alcoholic cocktails.
9. Soups, including soups in jelly.
10. Beef, steaks and roasts.
11. Veal; steaks, chops and roasts.
12. Pork; loins, chops, steaks, roasts.
13. Lamb or mutton; chops, roasts.
14. Poultry and fowl.
15. Fish and shell-fish.
16. Game.
17. Miscellaneous and variety meats, including liver and kidneys.
18. Prepared dishes, such as stews, casseroles, ragouts, curries, etc.
19. Egg and cheese dishes and combinations thereof.
20. All other dishes, such as spaghetti and combinations, vegetable platter, baked beans and combinations, chop suey, etc.
21. Vegetables, including potatoes.
22. Salads (except as served as a main course or appetizer course in a meal).
23. Desserts: cakes, cookies, pies, pastries and other baked goods.
24. Desserts: ice creams, sherbets, water ices, including combinations with syrups, creams, fruits and nuts.
- 24a. Desserts: Seasonal dessert specialties such as watermelon and cantaloupe.
25. Desserts: all others, including fruits, puddings and cheese.
26. Cold sandwiches, including garnishings, salads and vegetables.
27. Hot sandwiches, including garnishings, salads and vegetables.
28. All other food items served in a meal, including mints and preserves.
29. Beverage foods, including coffee, cocoa, chocolate, tea and milk.

BEVERAGES

30. Non-alcoholic beverages, including sparkling and mineral waters.
31. Alcoholic malt beverages, including beer and ale.
32. Wines, including sparkling wines.
33. Liquors, including whiskeys, gins and brandies.
34. Cordials, including fruit liqueurs.
35. All other alcoholic beverages.

(b) *The classes of meals.* For purposes of this regulation there shall be thirteen classes of meals, namely, breakfast, lunch, tea, dinner and supper during week days, and breakfast, lunch, tea, dinner and supper on Sundays, children's breakfast, lunch and dinner.

SEC. 22. Special orders. The provisions of this regulation to the contrary notwithstanding, the Office of Price Administration may, from time to time, issue special orders providing for the establishment or reduction of the maximum price of any food item or items or meal or meals sold or offered by any seller or sellers when, in the judgment of the District Director, such action is necessary or desirable to prevent inflation, to stabilize prices affecting the cost of living, or to carry out the purposes of the Emergency Price Control Act of 1942, as amended, and Executive Orders Nos. 9250 and 9328.

SEC. 23. Licensing. The provisions of Licensing Order No. 1 of the Office of Price Administration, licensing all persons who make sales under price control, are applicable to all sellers subject to this regulation or schedule. A seller's license may be suspended for violations of

the license or of one or more applicable price schedules or regulations. A person whose license is suspended may not, during the period of suspension, make any sale for which his license has been suspended. Under Licensing Order No. 1, a license is automatically granted without application by the seller.

SEC. 24. Revocation and amendment. (a) This regulation may be revoked, amended or corrected at any time.

(b) You may petition for an amendment of any provision of this regulation (including a petition pursuant to Supplementary Order No. 28) by proceeding in accordance with Revised Procedural Regulation No. 1, except that the petition shall be filed with and acted upon by the District Director.

This regulation shall become effective May 3, 1944.

NOTE: The reporting and record-keeping requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681; Gen. Order 50, 8 F.R. 4808)

Issued this 26th day of April 1944.

GILBERT J. FORTIER,
District Director.

[F. R. Doc. 44-6317; Filed, May 3, 1944;
12:18 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Rev. SR 14 to GMPR, Amdt. 128]

RECONDITIONED VALVES AND USED VALVES

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Section 6.33 (b) is amended to read as follows:

(b) *Definitions.* As used herein, the terms:

"Manufacturer's recommended resale price" means the manufacturer's published list price less the applicable published base resale discount (resale sheet) recommended by the manufacturer to be extended by jobbers on sales to consumers during the period October 1 to October 15, 1941.

"Valve" means any manually or motor-operated device designed to regulate, direct, or stop the movement of any liquid, gas, or vapor, in a piping system, tank, or any other restricted area, and includes, but is not limited to, angle, check, cross, gate, globe, or plug valve, or any evolution of these basic types.

"Reconditioned valve" means any used valve which has been subjected to the following reconditioning steps:

(1) The valve has been completely disassembled;

(2) The valve's operating mechanism has been thoroughly examined with particular attention to the seat;

(3) All defective worn parts have been replaced with new, reconditioned, or serviceable used parts;

*Copies may be obtained from the Office of Price Administration.

(4) The valve has been reassembled and painted;

(5) A hydrostatic test at double the rated water working pressure of the valve, but not in excess of the hydrostatic test pressure to which the valve was subjected when originally tested as a new valve by the original manufacturer, has been applied and the valve has been found to be free from leaks, defects, and in free working order.

"Used valve" means any valve which had been, at any time, incorporated into or connected to a piping system, machinery, or operating mechanism, and which has not been reconditioned as set forth above.

"Manufacturer's net maximum price to jobbers" means the manufacturer's published list price less the applicable published ("J" sheet) discount extended by the manufacturer on sales to jobbers during the period October 1 to October 15, 1941.

This Amendment No. 128 shall become effective May 8, 1944.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of May 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44-6319; Filed, May 3, 1944;
12:18 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Rev. SR 14, Amdt. 129]

TIRE RELINERS

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Section 6.47 is added to read as follows:

SEC. 6.47 Passenger car tire reliners made from scrap tires. The maximum retail price for a passenger car tire reliner made from scrap tires, regardless of size or ply, shall be \$2.25, or the maximum retail price fixed pursuant to other provisions of the General Maximum Price Regulation, whichever is higher.

This amendment shall become effective May 8, 1944.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of May 1944.

JAMES F. BROWNLEE,
Acting Administrator.

[F. R. Doc. 44-6318; Filed, May 8, 1944;
12:18 p. m.]

PART 1499—COMMODITIES AND SERVICES

[MPR 165, as Amended,* Amdt. 37]

ASH, DEBRIS, GARBAGE OR TRASH REMOVAL SERVICES

A statement of the considerations involved in the issuance of this amend-

*7 F.R. 6428, 6966, 8239, 8431, 8798, 8943, 8948, 9197, 9342, 9343, 9785, 9971, 9973, 10480, 10619, 10718, 11010; 8 F.R. 1060, 3324, 4782, 5681, 5755, 5933, 6364, 8506, 8873, 10671, 10939, 11754, 12023.

FEDERAL REGISTER, Friday, May 5, 1944

ment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Section 1499.101 (c) (3) is amended to read as follows:

(3) Ash, debris, garbage or trash removal, except when performed by or for Federal, state or local governmental units, or when the rates and charges for these services are fixed or must be approved thereby.

This amendment shall become effective May 8, 1944.

(56 Stat. 23, 765, Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of May 1944.

JAMES F. BROWNLEE,
Acting Administrator.

[F. R. Doc. 44-6321; Filed, May 3, 1944;
12:19 p. m.]

PART 1390—MACHINERY AND TRANSPORTATION EQUIPMENT

[MPR 136, as Amended,¹ Incl. Amdts., 1-116]

MACHINES AND PARTS, AND MACHINERY SERVICES

This compilation of Maximum Price Regulation 136, as amended, includes Amendment 116, effective May 8, 1944. The text added or amended by Amendment 116 is underscored.

In the judgment of the Price Administrator the prices of machines and parts and machinery services have risen to an extent and in a manner inconsistent with the purposes of the Emergency Price Control Act of 1942. The Price Administrator has ascertained and given due consideration to the prices of machines and parts and machinery services prevailing between October 1 and October 15, 1941, and has made adjustments for such relevant factors as he has determined and deemed to be of general applicability. So far as practicable, the Price Administrator has advised and consulted with representative members of the industry which will be affected by this regulation.

In the judgment of the Price Administrator the maximum prices established by this regulation are and will be generally fair and equitable and will effectuate the purposes of said act. A statement of the considerations² involved in the issuance of this regulation has been issued simultaneously herewith and filed with the Division of the Federal Register.

Insofar as this regulation uses specifications and standards which were not, prior to such use, in general use in the trade or industry affected, or insofar as their use was not lawfully required by another Government agency, the Price Administrator has determined, with respect to such standardization, that no

*Copies may be obtained from the Office of Price Administration.

¹ 8 F.R. 16132.

² Statements of considerations are also issued simultaneously with the issuance of amendments. Copies may be obtained from the Office of Price Administration.

practicable alternative exists for securing effective price control with respect to the commodities subject to this regulation.

[Above paragraph added by Supplementary Order 70, 8 F.R. 12556, effective 9-11-43]

Therefore, under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, and in accordance with Revised Procedural Regulation No. 1,³ issued by the Office of Price Administration, Maximum Price Regulation No. 136, as amended, is hereby issued.

Sec.

- 1390.1 Definition of "machines and parts" and "machinery services".
- 1390.2 Exclusions.
- 1390.3 Prohibition against dealing in machines or parts, machinery services, or the rental of machines or parts at prices above the maximum.
- 1390.4 Maximum prices: general provisions.
- 1390.5 Maximum prices: published price lists and established prices.
- 1390.6 Maximum manufacturers' prices for modified machines or parts.
- 1390.7 Maximum prices: sales by the manufacturer of machines or parts without list or established prices.
- 1390.8 Maximum prices: sales by the manufacturer of machines or parts manufactured in new or converted plants.
- 1390.8a Maximum prices for fixed capacitors of the type and size used for military radio and radar equipment.
- 1390.9 Maximum prices: machinery services.
- 1390.10 Maximum prices: sales by sellers other than the manufacturer.
- 1390.11 Maximum prices: sales of second-hand machines and parts.
- 1390.12 Maximum prices: leases.
- 1390.13 New list prices.
- 1390.14 Reports on cost-plus contracts.
- 1390.15 Emergency service charges.
- 1390.16 Federal and state taxes.
- 1390.17 Export sales.
- 1390.18 Contract prices, renegotiations, price-adjustment agreements, and price increases.
- 1390.19 Less than maximum prices.
- 1390.20 Evasion.
- 1390.21 Developmental contracts and sub-contracts.
- 1390.22 Secret contracts.
- 1390.23 Emergency purchases.
- 1390.24 Privileges accorded to certain foreign governments.
- 1390.25 Petitions for amendment.
- 1390.25a Adjustments.
- 1390.26 Records and additional or substituted reports.
- 1390.27 Sales slips and receipts.
- 1390.28 Transfer of business or stock in trade.
- 1390.29 Enforcement.
- 1390.29a Licensing.
- 1390.30 Definitions.
- 1390.31 Effective date.
- 1390.31a Effective dates of amendments.
- 1390.32 Appendix A: Machines and parts to which the October 1, 1941, date is applicable.
- 1390.33 Appendix B: Machines and parts to which the March 31, 1942, date is applicable.
- 1390.34 Appendix C: Illustrative list of products not covered by this regulation.
- 1390.35 Appendix D: Table of depreciation rates.

³ 7 F.R. 8961; 8 F.R. 8918, 3538, 6178, 11806; 8 F.R. 1594, 8075.

Sec.

- 1390.36 Appendix E: Form for application for adjustment.
- 1390.37 Appendix F: Used equipment and machinery inventory and sales report.

AUTHORITY: §§ 1390.1 to 1390.37, inclusive, issued under 56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871 and E.O. 9328, 8 F.R. 4681 and Directive No. 35 of the War Production Board.

§ 1390.1 *Definition of "machines and parts" and "machinery services."* For the purposes of this regulation:

(a) The term "machines and parts" means, and is limited to, products falling within the groups listed in Appendix A and Appendix B. Any other product is subject to the General Maximum Price Regulation,⁴ unless excluded therefrom or unless subject to some other specific regulation. For purposes of clarification, a list of certain products related to machinery but not covered by this regulation is contained in Appendix C;

(b) The term "machinery service" means any operation in the processing, machining, welding, treating, finishing, testing, inspecting, adjusting, maintaining, repairing or rebuilding of a "machine or part" owned by another or of a product owned by another which, as a result of such operation, becomes a "machine or part". However, the machining of a gear, pinion, or sprocket in connection with the production thereof, whether or not performed on material furnished by the customer, shall in no event be deemed a "machinery service", but shall in all cases be deemed to constitute the sale of a gear, pinion, or sprocket, respectively. The term "machinery service" also includes any service rendered in connection with the manufacture of automotive parts (as defined in Maximum Price Regulation 452—Manufacturers' Maximum Prices for Automotive Parts).

[Paragraph (b) amended by Am. 62, 7 F.R. 10230, effective 12-11-42 and Am. 101, 8 F.R. 14617, effective 11-4-43]

§ 1390.2 *Exclusions.* This regulation shall not apply to:

(a) Any sale or delivery of a machine or part or any machinery service for which a maximum price is established by any other regulation or order issued by the Office of Price Administration,⁵ except the General Maximum Price Regulation;

(b) Any sale or delivery of a machine or part if, prior to July 22, 1942, such machine or part had been received by a carrier, other than a carrier owned or controlled by the seller, for shipment to the purchaser;

(c) Any sale or delivery of a machine or part or machinery service performed

⁴ 9 F.R. 1385.

⁵ See for example, Maximum Price Regulation No. 1—Second-Hand Machine Tools (8 F.R. 10116, 13104); Revised Price Schedules No. 67—New Machine Tools (7 F.R. 1337, 2105, 2000, 2472, 2473, 2680, 2996, 3445, 3820, 4176, 5513, 5987, 7239, 7834, 8928, 8948, 9039, 9052, 9053, 11074); No. 82—Wire Cable, and Cable Accessories (7 F.R. 1358, 2133, 7034, 8948); and Maximum Price Regulation No. 134—Construction and Road Maintenance Equipment Rental Prices (8 F.R. 9140).

pursuant to a "developmental" contract or subcontract, as provided in § 1390.21;

(d) Any sale or delivery of a machine or part or any machinery service performed pursuant to a "secret" contract or subcontract, as provided in § 1390.22;

(e) Any sale or delivery of a machine or part or any machinery service performed pursuant to an "emergency purchase", as provided in § 1390.23;

(f) Any sale or delivery at retail of a machine or part by a person other than the manufacturer thereof, except that the sale or delivery at retail of automotive trucks, motorcycles, house and truck trailers, and busses (as described in paragraph (c) of Appendix B) shall not be excluded from, but shall be covered by, this regulation. For the purpose of this exclusion, a sale or delivery is deemed to be "at retail" (1) when made to an ultimate consumer, other than an industrial, commercial, or governmental user, or (2) when made (i) from a store, shop or mail-order house where sales are predominantly made to such ultimate consumers, (ii) at a price ordinarily charged such ultimate consumers (iii) to a purchaser of a class to whom sales were regularly made on or prior to October 1, 1941, at the prices ordinarily charged such ultimate consumers.

[Paragraph (f) amended by Am. 25, 7 F.R. 9712, effective 10-9-42; Am. 96, 8 F.R. 10662, effective 8-12-43 and Am. 116, effective 5-8-44]

(g) Any sale or delivery of a machine or part or any machinery service performed pursuant to a cost-plus-a-fixed-fee or cost-plus-a-percentage-of-cost contract: *Provided*, That a report is filed with the Office of Price Administration as provided in § 1390.14. The exemption granted by this paragraph is not applicable to machines or parts or machinery services for which the manufacturer, seller or machinery service supplier had a published list price or established price in effect on the base date for the machine or part or machinery service. When used in this paragraph the term "established price in effect on the base date" has the same meaning as that given to the term "established price in effect on October 1, 1941" by paragraph (c) of § 1390.5, except that the base date of the machine or part or machinery service shall be substituted for the date October 1, 1941.

[Paragraph (g) amended by Am. 106, 8 F.R. 16132, effective 12-1-43]

(h) Any lease of the following items:

(1) Public address systems.

(2) Electric storage batteries.

(3) Surveying and drafting instruments, and engineering reproduction equipment.

[Paragraph (h) added by Am. 3, 7 F.R. 6425, effective 8-19-42]

(i) Any machinery service performed in connection with the following:

(1) The repairing of public address systems.

(2) The repairing of electric storage batteries (including the charging and recharging thereof).

(3) The repairing of X-ray and electro-therapeutic apparatus.

(4) The repairing of surveying and drafting instruments, and engineering reproduction equipment.

(5) The maintenance, repair or rebuilding of automotive parts, subassemblies or accessories.

[Subparagraph (5) added by Am. 25, 7 F.R. 7912, effective 10-9-42]

[Paragraph (1) added by Am. 3, 7 F.R. 6425, effective 8-19-42]

(j) Any sale of a machine or part pursuant to a rental contract entered into prior to July 22, 1942, which provided for the transfer of title to the machine or part from the lessor to the lessee upon the payment in rentals, over and above a monthly carrying charge, of an amount equal to the valuation of the machine or part, as agreed upon at the time the contract was entered into.

[Paragraph (j) added by Am. 27, 7 F.R. 7944, effective 10-10-42]

(k) Any sale or delivery of second-hand snowplows to the United States Army.

[Paragraph (k) added by Am. 32, 7 F.R. 8479, effective 10-24-42]

(l) Any sale or delivery, until April 1, 1943, of a fixed capacitor designed and sold exclusively for use in military radio or radar apparatus.

[Paragraph (l) added by Am. 36, 7 F.R. 8897, effective 9-26-42 and amended by Am. 64, 8 F.R. 155, effective 1-1-43]

(m) Any sale or delivery to an agency of the United States of any complete plant for the manufacture of rubber tires.

(n) Any sale by any distiller to the Defense Plant Corporation of any still or fractionating column, or part thereof, installed or held as spare operating equipment.

[Paragraphs (m) and (n) added by Am. 58, 7 F.R. 9899, effective 11-26-42]

(o) Any lease of machines and parts by Defense Plant Corporation under a contract of lease which provides that machinery and equipment will be brought within the scope of the lease after purchase by the Defense Plant Corporation or the lessee for the account of Defense Plant Corporation but which contract of lease does not provide for specific rental prices allocable to specific machines or parts.

[Paragraph (o) added by Am. 72, 8 F.R. 3848, effective 4-2-43]

(p) Any sale or delivery by Isolantite, Inc., Belleville, New Jersey, of steatite insulators for the period from March 16, 1943, to October 1, 1943. The following conditions attach to this exclusion:

(1) Isolantite shall, upon each sale and delivery of steatite insulators made by it during the period of exclusion, include on, or attach to, each of its invoices for such sale, a written or printed statement to the effect that the prices charged have not been approved by the Office of Price Administration, but that it has been granted temporary exemption from the provisions of Maximum Price Regulation No. 136, as amended.

(2) Isolantite shall file with the Office of Price Administration, Washington,

D.C., within five days after the same are prepared, one copy of all audit reports and profit and loss statements, made by it or for it during the period of exclusion.

[Paragraph (p) added by Am. 86, 8 F.R. 7106, effective 5-31-43 and amended by Am. 98, 8 F.R. 12748, effective 9-15-43]

(q) Any tank or vessel which (1) is installed underground at the time of sale and (2) is purchased for use in its present location.

[Paragraph (q) added by Am. 113, 9 F.R. 3578, effective 4-7-44]

§ 1390.3 Prohibition against dealing in machines or parts, machinery services, or the rental of machines or parts at prices above the maximum. (a) On and after July 22, 1942, regardless of the terms of any contract, lease or other obligation:

(1) No person shall sell, deliver, lease, rent or negotiate the sale or lease of any machine or part, or supply or negotiate the supply of any machinery service, at a price higher than the maximum fixed by this regulation.

(2) No person, in the course of trade or business, shall buy, rent, lease or receive any machine or part or machinery service at a price higher than the maximum fixed by this regulation. If the purchaser or lessee receives from the seller or lessor a written statement that the price does not exceed the maximum price, and if the purchaser or lessee has no reason to doubt the validity of this statement, the purchaser or lessee shall be deemed to have complied with this subparagraph.

(3) No person shall agree, offer, solicit or attempt to do any of the acts prohibited by subparagraphs (1) and (2).

(b) The provisions of paragraph (a) (2) of this section shall not be applicable to:

(1) The United States or any agency thereof;

(2) The government, or any agency thereof, of any country whose defense the President deems vital to the defense of the United States under the terms of the Lend-Lease Act; or

(3) Any contracting officer of any of the foregoing, and, with respect to purchases made in his official capacity, any such contracting officer or any paying finance officer shall be relieved of any and every liability, civil or criminal, imposed by this regulation or by the Emergency Price Control Act of 1942, as amended.

[§ 1390.3 amended by Am. 89, 8 F.R. 7261, effective 6-3-43 and Am. 106, 8 F.R. 16132, effective 12-1-43]

§ 1390.4 Maximum prices; general provisions. (a) The base date for machines and parts set forth in Appendix A, is October 1, 1941; the base date for machines and parts set forth in Appendix B and for all machinery services is March 31, 1942. In applying the provisions of this regulation to the machines and parts set forth in Appendix B, the date March 31, 1942 shall be substituted for the date October 1, 1941 wherever it appears in this regulation. Such substitution, however, shall not be made in § 1390.10 (b) which applies only

to machines and parts set forth in Appendix A.

(1) Notwithstanding the foregoing provisions of this paragraph (a) and notwithstanding the title of Appendix A, the base date for gears, pinions, sprockets, and speed reducers, as listed in paragraph (1) of Appendix A, shall be October 15, 1941. In applying the provisions of this regulation to gears, pinions, sprockets, and speed reducers, as listed in paragraph (1) of Appendix A, the date October 15, 1941, shall be substituted for the date October 1, 1941, wherever that date appears. Corresponding changes shall be made in the dates mentioned in paragraph (b) of § 1390.10.

[Subparagraph (1) added by Am. 62, 7 F.R. 10230, effective 12-11-42]

(b) Notwithstanding any provision of this regulation:

(1) The maximum price for the sale or delivery by the manufacturer of any machine or part set forth in Administrative Notice No. 1⁶ or any amendments thereto shall be the price provided for therein;

(2) The maximum price for the sale or delivery by a seller other than the manufacturer of any machine or part set forth in Administrative Notice No. 1 or any amendments thereto, for which the manufacturer has published a list price in accordance with Administrative Notice No. 1 or any amendments thereto, shall be such list price, subject to all applicable extra charges, discounts or other allowances which such seller had in effect on October 1, 1941.

§ 1390.5 Maximum prices; published price lists and established prices—(a) Applicability of this section. This section is applicable to the sale or rental of any machine or part for which the manufacturer, seller or lessor had a published price list or established price in effect on October 1, 1941. However, this section is not applicable to the sale of second-hand machines or parts.

(b) **Prices.** The maximum price for the sale or rental by a manufacturer, seller or lessor of any machine or part covered by this section shall be the price stated in the published price list of the manufacturer, seller or lessor in effect on October 1, 1941, or the established price that he had in effect on that date, adjusted to reflect all applicable extra charges, discounts or other allowances that he had in effect to a purchaser of the same class on October 1, 1941.

(c) **Meaning of "established price in effect on October 1, 1941".** An "established price in effect on October 1, 1941" is:

(1) A price which had been quoted or charged to the same class of purchasers more than twice during the six months' period prior to and including October 1, 1941, and which was not increased on or before that date;

(2) A price which had been quoted or charged to a different class of purchasers more than twice during the six months' period prior to and including

October 1, 1941, and which was not increased on or before that date, adjusted to reflect the October 1, 1941, differential between the two classes of purchasers; or

(3) A price which would have been quoted on October 1, 1941, under a system of quoting prices without further cost computation.

(d) **Reports.** On or before December 3, 1943, every manufacturer, seller and lessor subject to this regulation shall file with the Office of Price Administration, Washington, D. C., if he has not already done so, all published price lists and discount sheets in effect on October 1, 1941, for the sale or rental of machines or parts. However, the manufacturer of any machine shall not be required to file list prices in effect on October 1, 1941, for repair parts for such machines or mechanical devices or for tools used in the maintenance and repair of such machines or mechanical devices, unless such filing is specifically required in writing by the Office of Price Administration. Any person who on October 1, 1941, sold, leased or delivered machines or parts at prices based upon price sheets published by any other person subject to this regulation need not file such other person's published price sheets but shall file instead a statement identifying the particular price sheets he used on that date, together with his own discount sheets, if any, and a statement of any prices which constitute exceptions to such practice.

(e) [Revoked]

[§ 1390.5 amended by Am. 56, 7 F.R. 9822, effective 7-22-42; Am. 103, 8 F.R. 14763, effective 11-3-43 and Am. 115, 9 F.R. 4134, effective 4-18-44]

§ 1390.6 Maximum manufacturers' prices for modified machines or parts—(a) Pricing formula. This section is applicable to any machine or part for which the manufacturer either had a published list price or an established price in effect on the base date, or for which he has established a list price in accordance with § 1390.13. For any such machine or part in which a substantial change in design, specifications, or equipment has been made and for which machine or part as modified a new maximum price has not been previously approved by the Office of Price Administration, the manufacturer's maximum price for the machine or part as modified shall be calculated as follows:

(1) The net increase or decrease in factory costs attributable to the change in design, specifications or equipment shall first be computed by using:

(i) Direct material cost determined by using material and parts prices which are not in excess of maximum prices established by the Office of Price Administration for such materials or parts. Where materials or parts are added and eliminated, prices in effect as of the same date shall be used both for the materials or parts added and the materials or parts eliminated.

(ii) Direct labor cost determined by using labor rates in effect on October 3, 1942. If after October 3, 1942, the manufacturer voluntarily or involuntarily granted a wage increase which was approved by the National War Labor Board,

the manufacturer may use that higher wage rate. Also, if the manufacturer's establishment is exempted by the National War Labor Board, he may use current wage rates.

(iii) Factory overhead allocable to such direct material and/or direct labor costs, determined in accordance with the manufacturer's method of accounting and charged at the actual rate or rates in effect in his plant on the base date, or at the standard rate or rates, if any, consistently used by the manufacturer for price determining purposes in the month which includes the base date, whichever is lower.

(2) The net increase or decrease in factory costs so calculated shall then be added to or subtracted from the maximum price to the class of purchasers commanding the lowest net price for the machine or part before modification. This computation provides the new maximum price for the machine or part as modified when sold to the class of purchasers commanding the lowest net price.

(3) The maximum price to every other class of purchasers shall then be calculated by applying to the new lowest net price the same percentage price differential as was in effect between the former lowest net maximum price and the former net maximum price to such other class of purchasers.

(b) **Reports.** Prior to, or within ten days after first quoting a price for any such modified machine or part, the manufacturer shall file a report with the Office of Price Administration, Washington 25, D. C., containing the following:

(1) The maximum price for the machine or part prior to modification.

(2) The maximum prices to jobbers, dealers, industrial users, government purchasers, and all other classes of purchasers as computed in accordance with paragraph (a).

(3) A detailed statement describing the changes in design, specifications or in equipment and explaining the calculation of the proposed maximum prices. The change in direct material costs, direct labor costs, and factory overhead costs due to the modification must be specified separately.

(c) **Approval of prices.** If the Office of Price Administration approves the proposed maximum prices or fails to disapprove them within thirty days after receiving such report, the proposed maximum prices shall become the maximum prices applicable to all subsequent sales and deliveries. However, if the Office of Price Administration later determines that such prices were not calculated in accordance with this section, such prices may be disapproved at any time. This disapproval will not be retroactive as to any deliveries made before the date of such disapproval. If the proposed maximum prices are at any time disapproved by the Office of Price Administration, the manufacturer shall file revised prices computed in accordance with paragraph (a), and the provisions of this section shall apply in all respects to such revised prices.

In the event that the Office of Price Administration finds that the manufacturer's production experience does not yet warrant the establishment of a permanent maximum price,

⁶ 7 F.R. 2984, 3690, 5453, 5688, 7926. Administrative Notice No. 1 sets forth exceptions from the provisions of voluntary price agreements and arrangements.

it may give temporary approval to a proposed maximum price and require further filing under this section at a later date. If the manufacturer does not file the report required by paragraph (b), the Office of Price Administration may establish a maximum price of its own accord. This price will be in line with the level of maximum prices established by this regulation, and it shall apply to all sales or deliveries of the machine or part to which such price applies made after April 18, 1944.

(d) *Interim pricing.* Prior to receipt of approval by the Office of Price Administration of any proposed price, or prior to the expiration of the thirty-day period after filing the report required in paragraph (b) of this section, the proposed price may be tentatively quoted and/or charged, but no more than 75% of the proposed price may be paid or received until a maximum price has been established, and final settlement shall be made in accordance with the maximum price approved by the Office of Price Administration.

[§ 1390.6 added by Am. 115, 9 F.R. 4134, effective 4-18-44. Former § 1390.6 revoked by Am. 103, 8 F.R. 14763, effective 11-3-43]

§ 1390.7 *Maximum prices; sales by the manufacturer of machines or parts without list or established prices.* This section is applicable to any machine or part for which the manufacturer had no published list price or established price in effect on the base date, and is not a modified machine or part covered by § 1390.6. The maximum manufacturers' price for the sale of any such machine or part to any purchaser shall be computed on the basis of the following:

[Above paragraph amended by Am. 103, 8 F.R. 14763, effective 11-3-43; and Am. 115, 9 F.R. 4134, effective 4-18-44]

(a) *Pricing formula.* (1) The price-determining method which was in use on October 1, 1941, applying the overhead rate, machine hour rates, if any, or other bases of computation which were in use on that date. If no such method was in use on October 1, 1941, the manufacturer shall use the method which would have been used on that date, applying the overhead rate, machine hour rates, if any, or other bases of computation which were in use or would have been used on that date. For the purposes of this subparagraph (1), the method of determining the total price in a cost-plus contract shall not be deemed to be a "price-determining method";

(2) To the extent that the price-determining method includes or is based on direct labor costs, the manufacturer shall use labor rates in effect on October 1, 1941, determined and applied in accordance with the provisions of paragraph (b) below;

(3) To the extent that the price-determining method includes or is based on prices paid for materials, the manufacturer shall use material prices in effect on October 1, 1941, determined and applied in accordance with the provisions of, and subject to the exceptions contained in, paragraph (c) below;

(4) To the extent that the price-determining method includes or is based on prices paid for subcontracted services, whether machinery services or otherwise,

the manufacturer shall use actual prices paid or to be paid for such subcontracted services, not in excess of applicable maximum prices;

[Subparagraph (4) amended by Am. 54, 7 F.R. 9729, effective 11-25-42]

(5) To the extent that the price-determining method includes freight rates paid, the manufacturer shall use freight rates in effect on March 31, 1942, or current freight rates, whichever are lower, for outbound shipments for the mode of transportation actually used and for inbound shipments for the mode of transportation actually used and from the actual point of origin.

[Subparagraph (5) amended by Am. 90, 8 F.R. 7767, effective 6-14-43]

(6) For the labor required for installation if the machine or part is sold on an installed basis: labor rates in the area of installation in effect on, or resulting from an agreement concluded or from a grant made or announced on or before April 27, 1942, or, where the wage stabilization agreement issued May 22, 1942 between the Building and Construction Trades Department of the American Federation of Labor and certain agencies of the United States is applicable or where such rates have become the prevailing rates in that area, labor rates in effect on July 1, 1942.

[Subparagraph (6) amended by Am. 83, 8 F.R. 5818, effective 5-8-43]

(7) All applicable extra charges, discounts or other allowances in use on October 1, 1941 to a purchaser of the same class.

(8) To the extent that the price-determining method includes or is based on prices paid for perishable tools, dies, molds, patterns, or work-holding devices, the manufacturer shall use actual prices paid or to be paid for such items, not in excess of maximum prices provided by this regulation, determined in accordance with paragraph (c) (4) below.

[Subparagraph (8) added by Am. 54, 7 F.R. 9729, effective 11-25-42]

(b) *Labor rates.* (1) "Labor rates in effect on October 1, 1941" are the rates in the manufacturer's plant for each classification of labor that either were prevailing on October 1, 1941, or were made retroactive to or before that date by an order of the National War Labor Board. If the manufacturer employs labor of a particular classification not employed in such plant on October 1, 1941, he shall apply the rate prevailing on that date for such classification in the locality in which the manufacturing is to be performed. If labor of such classification was not employed on October 1, 1941 in such locality, the manufacturer shall apply the rate prevailing on that date for the nearest skill in the nearest comparable locality, as accurately as he is able to determine the same by reasonably diligent inquiry.

[Subparagraph (1) amended by Am. 116, effective 5-8-44]

(2) The permitted labor cost to be used in the pricing formula provided in paragraph (a) is to be determined by applying the clock hours of each clas-

sification of labor estimated to be required on the basis of previous production experience, or, where an estimate is not used, to the clock hours actually required, the hourly rate for such classification in effect on October 1, 1941. If on October 1, 1941, an average rate was used, an average rate may be applied: *Provided*, That the labor rates and the method of computing the average in effect on October 1, 1941, are used. If individuals have been or are promoted from one classification to another because of increased efficiency, the higher rates may be used: *Provided*, That such higher rates may not be used if they result in increased prices.

(3) In determining the price for a firm price contract, the amount of overtime estimated to be required in excess of that provided for in the overhead or machine hour rate may be added to the maximum price. Further, the amount of overtime actually required in an unforeseen contingency, over and above the amount estimated, if any, may be added to the maximum price, if the purchaser agrees and it is billed separately. No markup, overhead, or profit shall be applied to that part of the labor cost which is in excess of the straight-time cost. However, no adjustment of the overhead rate or machine hour rate in effect on October 1, 1941, shall be required; and if on October 1, 1941, the manufacturer's price determining method included an amount determined by applying a fixed percentage to straight-time labor costs, he may apply mark-up, overhead or profit to that amount if he did so on October 1, 1941.

[Subparagraph (3) amended by Am. 116, effective 5-8-44]

(c) *Material prices.* (1) The term "material prices" includes the prices for raw materials, and for materials or products which have been processed or fabricated to any degree, including parts and subassemblies.

(2) The permitted material cost to be used in the pricing formula provided in paragraph (a) is to be determined by applying material prices as determined in subparagraph (3) below to the quantities of materials estimated to be required on the basis of previous production experience or, where an estimate is not used, the quantities actually required.

(3) Except as provided in subdivisions (i) and (ii) below, the manufacturer shall use the lower of the following two prices: the price for the material which was or would have been paid by him on October 1, 1941, or the actual price for such material paid or to be paid, not in excess of the applicable maximum price.

(i) For any part or subassembly purchased, the manufacturer shall use the actual price for such part or subassembly paid or to be paid, not in excess of the applicable maximum price. For the purposes of this paragraph, the term "parts and subassemblies" means, in addition to products covered by this regulation, products covered by Revised Price Schedule No. 82—Wire, Cable and Cable Accessories, Maximum Price Regulation No. 119—Original Equipment Tires and Tubes, Maximum Price Regulation No.

147—Bolts, Nuts, Screws, and Rivets, and Maximum Price Regulation No. 149—Mechanical Rubber Goods, and materials bought on an installed basis in the process of erection of a machine or part sold on an erected and installed basis.

[Subparagraph (i) amended by Am. 54, 7 F.R. 9729, effective 11-25-42]

(ii) For any material for which the manufacturer is unable by reasonable diligence to determine the price he would have paid on October 1, 1941, the manufacturer shall use the actual price for such material paid or to be paid, not in excess of the applicable maximum price. In no event shall this subdivision (ii) apply if the material had a published price in effect on October 1, 1941, or if the manufacturer purchased such material on or about October 1, 1941, or if the manufacturer's supplier of the material, or one of the manufacturer's suppliers, was selling such material on or about October 1, 1941.

(4) Where the "actual price to be paid" for any material (including any part or subassembly) or machinery service is required or permitted to be used by the provisions of subparagraph (3) above, or of subparagraph (4) of paragraph (a), in calculating such price:

(i) The manufacturer shall use the price estimated by his supplier, if available: *Provided*, That the manufacturer has no reason to believe that the price so estimated exceeds the applicable maximum price; or

(ii) If a price estimated by a supplier is not available at the time he estimates his price, the manufacturer shall use his own estimate of the price to be paid for the material or machinery services: *Provided*, That if the price so estimated exceeds the actual price charged by the supplier, such actual price, not to exceed the supplier's maximum price, shall be substituted in the pricing formula and the manufacturer's maximum price recomputed accordingly. If the price so estimated is less than the actual price charged by the supplier, such actual price, not to exceed the supplier's maximum price, may be substituted in the pricing formula and the manufacturer's maximum price recomputed accordingly.

(d) *Reports*. If the price of any machine or part computed in accordance with the provisions of this section is at any time increased above the price charged on the previous sale or delivery, or is increased above the original contract price by renegotiation or by a price adjustment clause, unless the increase is definitely assignable to a change in specifications or a change in conditions of delivery, the manufacturer thereof shall file the report required by § 1390.18 (f).

§ 1390.8 Maximum prices; sales by the manufacturer of machines or parts manufactured in new or converted plants. If the manufacturer is unable to determine the maximum price for any machine or part pursuant to the provisions of § 1390.7 because such machine or part is manufactured in a new or converted plant or for any other reason:

(a) *Price-determining method*. The manufacturer shall establish a price-determining method and rates for use therein (labor rates, machine hour rates,

overhead rates, and profit rates, etc.) for the determination of the maximum price for such machine or part, conforming so far as possible to the provisions of § 1390.7. The overhead rate so established shall be a reasonable rate in the light of the operations to be performed, and shall, so far as possible, be based on costs for items of overhead in effect on October 1, 1941. In the case of a newly constructed plant, however, the manufacturer may use as a base date for all purposes the date upon which price quotations were first made or upon which production was started in the plant, whichever is earlier, and shall use the labor rates for each classification of labor prevailing on that date in the locality of the plant, determined in accordance with § 1390.7 (b).

(b) *Reports*. The manufacturer shall file a report with the Office of Price Administration, Washington, D. C., containing (1) the proposed price-determining method and rates used in establishing maximum prices as provided in paragraph (a); (2) a description of the items for which the maximum price is to be computed under such price-determining method; (3) a representative sample of prices computed in accordance with the proposed price-determining method; (4) an explanation of the circumstances necessitating pricing under this section; (5) relevant data bearing on the price-determining method and rates to be used, including evidence that such method and rates were determined as provided in paragraph (a); (6) a statement of whether or not quantity production has been achieved or is anticipated; (7) a brief description of the newly constructed or converted plant; and (8) any other data which the Office of Price Administration may in writing require.

(c) *Maximum prices*. (1) Prices computed in accordance with the proposed method reported under paragraph (b) may be quoted or charged for thirty days prior to filing such report and may be quoted or charged thereafter until the Office of Price Administration disapproves such price in writing or requires a new filing under paragraph (b). If the Office of Price Administration approves the proposed price-determining method and the prices of the machines or parts whose maximum prices are to be computed in accordance therewith, or fails to disapprove them within thirty days after receiving such report, the maximum prices for such machines or parts shall be determined in accordance with the proposed price-determining method until a new price-determining method is proposed and reported either upon the initiative of the manufacturer or as required by the Office of Price Administration.

(2) Within thirty days after receiving such report, the Office of Price Administration may in writing disapprove the proposed price-determining method and the prices resulting from its use, and upon such disapproval the manufacturer shall file a revised price-determining method in accordance with the suggestions and directions contained in such disapproval, and the provisions of this section shall apply in all respects to such revised method. In disapproving any proposed price-determining method, the

Office of Price Administration may require the manufacturer to adjust all contracts made at prices determined pursuant to such method and may require that refunds be made as to all deliveries made at prices determined pursuant to such method. Such disapproval and requirement of refunds shall, upon request of the manufacturer, be embodied in an order.

(d) Not later than six months after last filing a price-determining method which was not disapproved by the Office of Price Administration, the manufacturer shall file a report with the Office of Price Administration, Washington, D. C., containing (1) a comparison of his actual direct and indirect costs for the period under review, with the estimates on which the price-determining method being used was based and (2) so far as available, for each of the representative items for which prices were previously filed, the current price being charged, and a comparison of the actual direct and indirect costs with the estimate on which the price previously filed was based.

(e) Any manufacturer may at any time file, and the Office of Price Administration may at any time require the filing of a new or revised price-determining method in accordance with the provisions of this section, together with a representative sample of prices determined in accordance with such method.

[§ 1390.8 amended by Am. 71, 8 F.R. 3370, effective 3-24-43]

§ 1390.8a Maximum prices for fixed capacitors of the type and size used for military radio and radar equipment. Notwithstanding any other provisions of this regulation, the maximum prices for fixed capacitors of the type and size used for military radio and radar equipment shall be determined in accordance with the provisions of this section.

(a) *Maximum prices; price lists*. The maximum price for fixed capacitors of the type and size used for military radio and radar equipment shall be the price stated in the price list of the seller in effect on April 1, 1943 less all discounts, allowances and any other deductions from the list price in effect to a purchaser of the same class on that date. This price is subject to the approval of the Office of Price Administration in accordance with the provisions of paragraph (e).

(b) *Maximum prices; formula pricing*. If a fixed capacitor of the type and size used for military radio and radar equipment cannot be priced in accordance with the provisions of paragraph (a), its maximum price shall be determined by using the price-determined method the seller used on April 1, 1943. In applying that price-determining method a manufacturer must use labor rates and materials prices in effect to him on April 1, 1943. The price-determining method used to compute maximum prices under this paragraph is subject to the approval of the Office of Price Administration in accordance with the provisions of paragraph (e).

(c) *Mica capacitors*. Manufacturers of mica capacitors may add to the maximum price determined in accordance with the provisions of paragraph (a) or (b) increases in unit costs due to in-

creases realized subsequent to April 1, 1943, in the cost of block mica and in the cost of splitting and cutting mica film, except that nothing in this paragraph shall permit the addition of an increase in costs due to an increase in labor rates subsequent to April 1, 1943. Sellers other than manufacturers may increase the prices of mica capacitors by the amount that prices have been increased to them pursuant to the provisions of the preceding sentence.

(d) *New list prices.* (1) Any person who desires or is required in writing by the Office of Price Administration to establish a list price for fixed capacitors of the type and size used for military radio and radar equipment shall file a report pursuant to subparagraph (2) hereof containing a proposed price determined under paragraph (b), and such price shall thereafter be the maximum price: *Provided*, That the Office of Price Administration either approves such price in writing or fails to disapprove it within 30 days after the receipt of the report. Such price may be disapproved only on the ground that it was not computed in accordance with the provisions of paragraph (b) or because the Office of Price Administration finds that a computation at a later date may result in a lower maximum price.

(2) Under the circumstances set forth in subparagraph (1), a report shall be filed with the Office of Price Administration in Washington, D. C., containing the proposed list price, the proposed effective date, the class or classes of purchasers to whom such price is to be quoted, all relevant data used in determining such price, and evidence that such price was determined in accordance with the provisions of paragraph (b).

(e) *Approval of maximum prices—(1) Reports.* Every seller of fixed capacitors of the type and size used for military radio and radar equipment shall file with the Office of Price Administration, in Washington, D. C., before April 30, 1943, a report stating the maximum prices established by this section, the method by which he determined those prices, and the discounts, allowances and other price differentials in effect therefor on April 1, 1943. The report filed by sellers other than manufacturers shall be accompanied by a list of the cost prices to such sellers.

(2) *Approval.* Each maximum price and price-determining method reported in the manner just set forth shall be subject to the approval of the Office of Price Administration within 30 days after the receipt of the report. Within five days prior to filing such report, the seller may quote, contract, sell or deliver at the proposed price; but final settlement shall be made in accordance with the action of the Office of Price Administration on the report and, if required by the Office of Price Administration, refunds shall be made.

[§ 1390.8a added by Am. 79, 8 FR. 4524, effective 4-1-43]

§ 1390.9 *Maximum prices; machinery services—(a) (1) Services with list or established prices.* If for any machinery service the supplier had a published machine hour rate, established

price or other charge in effect on March 31, 1942, the maximum price to any purchaser for such machinery service shall be the net price which the supplier would have received on that date from a purchaser of the same class. When used in this subparagraph the term "established price in effect on March 31, 1942" has the same meaning as that given to the term "established price in effect on October 1, 1941" by paragraph (c) of § 1390.5, except that the date March 31, 1942, shall be substituted for the date October 1, 1941.

[Subparagraph (1) amended by Am. 106, 8 F.R. 16132, effective 12-1-43]

(2) *Reports.* On or before August 1, 1942, every machinery service supplier subject to this regulation, shall file with the Office of Price Administration, Washington, D. C., if he has not already done so, all his published and confidential machine hour rates, charge sheets, and discount sheets in effect on March 31, 1942, for machinery services.

(b) *Services without list or established prices.* If for any machinery service a supplier had no such published or established rate or charge in effect on March 31, 1942, the maximum price for such machinery service to any purchaser shall be determined in accordance with the applicable provisions of § 1390.7, except that the date March 31, 1942, shall be substituted for the date October 1, 1941.

[Paragraph (b) amended by Am. 106, 8 F.R. 16132, effective 12-1-43]

(c) *New or converted plants.* Notwithstanding the provisions of paragraphs (a) and (b) of this section, if any machinery service is performed in a newly constructed plant or if the supplier is unable to determine the maximum price for any machinery service because it is performed in a converted plant or for any other reason:

(1) *Price.* The maximum price for each sale of such machinery service shall be a price determined so far as possible in accordance with paragraph (b) of this section and reported pursuant to subparagraph (2) below: *Provided*, That the Office of Price Administration either approves such price in writing or fails to disapprove it within thirty days after receipt of the report. Within five days prior to filing such report and during such thirty-day period, the supplier may quote, contract or perform such machinery service at the proposed price, but final settlement shall be made in accordance with the action of the Office of Price Administration on such report and, if required by the Office of Price Administration, refunds shall be made.

(2) *Report.* Such supplier shall file a report with the Office of Price Administration, Washington, D. C., containing the proposed price, the proposed billing date, a statement of whether or not such machinery service had a published or confidential rate or charge in effect on March 31, 1942, all relevant price-determining data including evidence that the proposed price was determined so far as possible in accordance with paragraph (b) of this section, and a brief description of the newly constructed or converted plant. If the supplier desires such price to become the maximum price

applicable to such machinery services thereafter performed, a statement that the report is also being filed pursuant to § 1390.13 should be made.

§ 1390.10 *Maximum prices; sales by sellers other than the manufacturer—(a) Machines and parts with list or established prices.* If for any machine or part a seller other than the manufacturer thereof had a published list price or established price in effect on October 1, 1941, (as defined in § 1390.5 (c)), the maximum price shall be determined as provided in § 1390.5.

[Paragraph (a) amended by Am. 106, 8 F.R. 16132, effective 12-1-43]

(b) *Certain cases where seller's price is based on lower cost—(1) Applicability of this paragraph.* This paragraph is applicable to the sale by a seller other than a manufacturer of a machine or part for which the seller had a list or established price in effect on the base date which was based on a cost lower than the price which his base date supplier had in effect to him on that date. When used in this paragraph the term "base date supplier" means the last person from whom the seller purchased the machine or part before the base date. This paragraph is also applicable to the sale by a seller other than a manufacturer of a machine or part whose cost has been increased to him in accordance with the provisions of this paragraph.

(2) *Price—(1) Where seller's base date price was based on price sheets published by another.* Where the seller's list price in effect on the base date was based on price sheets published by another person, the maximum price shall be determined as follows: The seller shall deduct from the published price list, which such other person had in effect on the base date, or which was revised by such other person in accordance with the provisions of this paragraph, all discounts, allowances and any other deductions from the list price which the seller had in effect to a purchaser of the same class on the base date.

(ii) *Where price not based on price sheets published by another.* Where the seller's list or established price in effect on the base date was not based on price sheets published by another person, the seller shall determine the maximum price as follows: The seller shall multiply his selling price in effect on the base date to each class of purchasers by the percentage increase in cost to him either occurring on or before October 1, 1941, or due to an increase in price permitted by this paragraph. This percentage shall be determined as follows: The seller shall divide either the price his supplier had in effect to him on the base date, had he made a purchase, or the increased price this paragraph permits his supplier to charge, by the cost on which his base date selling price was calculated.

(3) *Report and approval of price.* No adjustment may be made under subparagraph (2) until the price which the seller wishes to charge is approved in writing by the Office of Price Administration. A seller, other than a manufacturer, who desires to increase his price for a machine or part in accordance with subparagraph (2) shall file a report with the Office of Price Administration in Wash-

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ington, D. C. This report shall contain the following information:

(i) Where the seller's base date price was based on price sheets published by another. Where the seller's base date price was based on price sheets published by another person, the report shall contain the following information:

(a) The name and address of the immediate supplier, as well as the manufacturer, of the item. If the manufacturer is also the supplier, include a statement to that effect.

(b) A description of the machine or part.

(c) A copy of the published price sheet which the seller used in determining his base date price, together with all discounts, allowances and any other deductions from that list price which he had in effect on the base date.

(d) A copy of the published price sheet which was put in effect either on or before the base date, or in accordance with the provisions of this paragraph.

(e) The list price which the seller desires to have approved for his use, together with all applicable discounts, allowances and any other deductions from that list price.

(ii) Where the seller's base date price was not based on price sheets published by another. Where the seller's base date price was not based on price sheets published by another person, the report shall contain the following information:

(a) The name and address of the immediate supplier, as well as the manufacturer, of the item. If the manufacturer is also the supplier, include a statement to that effect.

(b) A description of the machine or part.

(c) Where the price to the seller was increased on or before the base date, the price that the seller's supplier would have charged him on the base date, had he made a purchase, and the date that price became effective. Where the price to the seller was increased in accordance with the provisions of this paragraph, the price which has been approved by the Office of Price Administration and the date that approval was given.

(d) The cost upon which the seller's base date selling price was calculated, and the period during which such cost was effective.

(e) The seller's net price in effect to each class of purchasers on the base date, and the date such price or prices became effective.

(f) The maximum price or prices determined in accordance with subparagraph (2) and the class of purchasers to which each price applies.

[Paragraph (b) amended by Am. 95, 8 F.R. 9520, effective 7-23-43; Am. 100, 8 F.R. 13299, effective 10-4-43; and Am. 112, 9 F.R. 3085, effective 8-27-44]

(c) *Machines and parts without list prices.* This paragraph is applicable to any machine or part which either has been modified since the base date or for which the seller had no published list price or established price in effect on October 1, 1941. The maximum price for the sale of any such machine or part by a seller other than a manufacturer to any purchaser shall be the net price determined by applying a margin de-

termined pursuant to subparagraph (2) of this paragraph to:

[Subparagraph (1) amended by Am. 106, 8 F.R. 16132, effective 12-1-43; and Am. 115, 9 F.R. 4134, effective 4-18-44]

(i) The seller's net invoiced cost, if available, not to exceed the applicable maximum price, or

(ii) If actual cost is not available, net invoiced cost as estimated by the seller's supplier: *Provided*, That the seller has no reason to believe that the price so estimated exceeds the applicable maximum price.

(2) The margin to be applied in the circumstances referred to in subparagraph (1) shall be the first of the following which is available:

(i) The weighted average percentage margin over net invoiced cost applied in prices charged by such seller on or about October 1, 1941, for the same machines or parts sold to purchasers of the same class;

(ii) The weighted average percentage margin over net invoiced cost applied in prices charged by such seller on or about October 1, 1941, for all machines and parts of the same class sold to purchasers of the same class;

(iii) The weighted average percentage margin over net invoiced cost applied in prices charged by such seller on or about October 1, 1941, for the same machines or parts sold to purchasers of a different class or, if none were sold, for machines and parts of the same class sold to purchasers of a different class, adjusted to afford the same percentage differential in price between purchasers of such different classes as was customarily made by the seller on or about October 1, 1941, for purchasers of such different classes.

[Paragraph (c) amended by Am. 1, 7 F.R. 5665, effective 7-22-42 and Am. 25, 7 F.R. 7912, effective 10-9-42]

(3) Notwithstanding the provisions of subparagraphs (1) and (2) of this paragraph, where any machine or part listed in § 1390.33, Appendix B, is sold on a delivered basis and delivered by railroad, the maximum price shall be reduced by an amount equal to the difference between railroad freight figured on the basis of rates in effect on March 31, 1942, and freight figured on the basis of current railroad freight rates.

[Subparagraph (3) added by Am. 90, 8 F.R. 7767, effective 6-14-43]

(d) *Machines and parts; new lines.* If for any machine or part a seller other than the manufacturer thereof had no published list price or established price in effect on October 1, 1941, and if such seller sold no machine or part of the same class on or about that date:

[Above paragraph amended by Am. 106, 8 F.R. 16132, effective 12-1-43]

(1) *Price.* The maximum price for such machine or part shall be the price reported pursuant to subparagraph (2), below: *Provided*, That the Office of Price Administration either approves such price in writing or fails to disapprove it within thirty days after receipt of the report. Within five days prior to the filing of such report and during such thirty-day period, such seller may quote, contract, sell or deliver at the proposed price, but final settlement shall be made

in accordance with the action of the Office of Price Administration on such report and, if required by the Office of Price Administration, refunds shall be made.

(2) *Reports.* The seller of such machine or part shall file with the Office of Price Administration, Washington, D. C., a report containing the proposed price, the proposed billing date, the net invoiced cost of such machine or part, the date of purchase, a statement of the basis on which such proposed price was determined, and an explanation of the reasons why § 1390.5 and paragraphs (a) and (c) of this section were inapplicable. If such seller desires such price to become the maximum price applicable to all subsequent sales and deliveries of such machine or part, a statement that the report is also being filed pursuant to § 1390.13 should be included.

(e) *Machines and parts completely subcontracted.* If a manufacturer of a machine or part also subcontracts to another the manufacture of the same machine or part which he resells in the form in which it is received from the subcontractor the maximum price for the prime contractor shall be determined as follows:

(1) If for any such machine or part the prime contractor had a published list price or established price in effect on October 1, 1941, the maximum price shall be determined in accordance with § 1390.5; or

(2) If the prime contractor had no such list or established price, the maximum price shall be determined in accordance with the applicable provisions of subparagraphs (1) and (2) of paragraph (d).

[Paragraph (e) amended by Am. 25, 7 F.R. 7912, effective 10-9-42, and Am. 106, 8 F.R. 16132, effective 12-1-43]

(f) *Installed sales.* Nothing in this regulation shall be deemed to establish maximum prices for installation services performed by persons other than the manufacturer or assembler of the machine or part to be installed.

§ 1390.11 Maximum prices; sales of second-hand machines and parts—(a) Definitions. For the purpose of this section

(1) A "second-hand machine or part" is any machine or part which has previously been used.

(2) A "rebuilt and guaranteed" machine or part is a machine or part (i) in which all worn or missing components which should have been replaced or repaired for satisfactory operation, have been replaced or repaired, (ii) which carries a binding written guaranty of satisfactory operation for a period of not less than 60 days, and (iii) which is expressly invoiced as a rebuilt and guaranteed machine or part or its equivalent, and in addition, in those cases where the machine or part operates under power or pressure, has been tested under power or pressure so as to prove that it has a substantially equivalent performance to that of a new machine or part. In the event of either a sale by a government agency, or a sale for the benefit of creditors where a government agency is the largest creditor a written certificate may be substituted for the guarantee. The

certificate must be signed by a qualified person who is not engaged in the business of selling second-hand machines or parts. This certificate must state that such person has inspected the second-hand machine or part and that all worn or missing components which should be replaced or repaired for satisfactory operation, if any, have been replaced or repaired.

[Subparagraph (2) amended by Am. 109, 9 F.R. 2138, effective 2-23-44]

(3) The "new base price", except as provided in paragraph (e) below, means the highest maximum price established by this or any other regulation issued by the Office of Price Administration to any class of purchasers for the nearest equivalent new machine or part, f. o. b. manufacturer's plant.

(b) *Maximum price; rebuilt and guaranteed second-hand machines and parts.* The maximum price for any rebuilt and guaranteed second-hand machine or part shall be the higher of the following:

(1) 85% of the new base price for such machine or part, or

(2) The price determined in accordance with the "depreciation method" provided in paragraph (d), below.

(c) *Maximum price; second-hand machines and parts which are not rebuilt and guaranteed.* The maximum price for any second-hand machine or part which is not rebuilt and guaranteed shall be the higher of the following, but shall not exceed 80% of the new base price for such machine or part:

(1) 55% of the new base price for such machine or part, or

(2) The price determined in accordance with the "depreciation method" provided in paragraph (d), below.

(d) *Maximum price; depreciation method*—(1) When "depreciation method" may be used. A maximum price may be computed under the "depreciation method" only for those machines or parts listed in Appendix D, "Table of depreciation rates".

(2) *Computation of maximum price.* Under the "depreciation method", the maximum price of any second-hand machine or part listed in Appendix D, "Table of depreciation rates" shall be the new base price for such machine or part less depreciation on the straight line method, at the rate provided for such type of machine or part in that Table, from the date of acquisition by the original purchaser for use of the machine or part when new to the date of sale. In measuring such period of time, a fractional period of a month consisting of 16 days or more shall be regarded as a full month and a fractional period of a month consisting of 15 days or less shall be disregarded. Upon each sale at a price computed under this paragraph, the seller shall deliver to the buyer a signed statement setting forth the name and address of the original purchaser for use of the machine or part when new and the date of acquisition of such machine or part by such purchaser.

[Subparagraph (2) amended by Am. 87, 8 F.R. 7197, effective 6-2-43]

(e) *Maximum prices; second-hand machines or parts sold when new on de-*

livered or installed price basis only—(1) Sold when new on delivered price basis only. Notwithstanding any other provision of this section, if the maximum price for any second-hand machine or part established by this regulation when such machine or part is sold new, is on a delivered price basis only, the new base price upon the sale of such machine or part shall be the highest maximum price to any class of purchasers for the nearest equivalent machine or part when new, delivered to the point where such second-hand machine or part is located at the time of purchase by the seller.

(2) *Sold when new on installed price basis only.* Notwithstanding any other provision of this section, if the maximum price for any second-hand machine or part established by this regulation when such machine or part is sold when new, is on an installed price basis only (that is, a lump sum covering the cost of the machine or part, the cost of transportation, and the cost of installation), the new base price upon the sale of such machine or part shall be the price for the same machine or part when new, installed at the point of original installation.

[Paragraph (e) amended by Am. 96, 8 F.R. 10662, effective 8-12-43]

(f) *Charges and expenses which may or may not be added to the maximum price—(1) Items which may not be added.* The following charges and expenses are included within the maximum price for any second-hand machine or part and such charges and expenses may not be paid or received in addition to the maximum price:

(i) Any commission or service charge paid to or for the account of, the seller or any agent of the seller;

(ii) Expense of packing and crating the second-hand machine or part (except where a second-hand machine or part is sold on an "as-is where-is" basis);

(iii) Expense of dismantling and loading the second-hand machine or part for shipment to the purchaser (except where a second-hand machine or part is sold on an "as-is where-is" basis).

(2) *Items which may be added.* The following charges and expenses are not included within the maximum price for any second-hand machine or part and such charges and expenses, not to exceed the maximum price for such charges and expenses established by any applicable regulation or order of the Office of Price Administration, may be paid or received in addition to the maximum price, if billed or invoiced separately.

(i) The actual amount of any tax upon the sale or delivery of the second-hand machine or part;

(ii) The actual cost of transportation of the machine or part from the point of shipment to the purchaser's plant. The point of shipment means the point at which the machine is loaded on a conveyance for transportation directly to the purchaser;

(iii) The actual cost of installing the second-hand machine or part in the purchaser's plant.

(3) *Sales on an "as-is where-is" basis.* If a second-hand machine or part is sold on an "as-is where-is" basis and the sales price plus the actual cost incurred

by the purchaser for dismantling and loading exceeds the applicable maximum price for such second-hand machine or part, the seller shall refund to the purchaser the excess over the maximum price or 10% of the maximum price, whichever sum is lower.

(g) *Sales by Defense Plant Corporation, the War Department, or the Department of the Navy.* This paragraph is applicable to the sale by the Defense Plant Corporation, the War Department and the Department of the Navy of any second-hand machine or part which was acquired by the agency in question for the purpose of rental. Notwithstanding any other provisions of this regulation, the maximum price for such a sale shall be the price determined in accordance with the applicable provisions of paragraphs (a) to (f), inclusive, of this section or the price determined in accordance with the applicable provisions of subparagraphs (1) to (3), inclusive, of this paragraph (g), whichever is the higher.

[Above paragraph amended by Am. 111, 9 F.R. 3084, effective 3-27-44.]

(1) *Where the purchaser is the first lessee of the machine or part under an agreement with the Defense Plant Corporation, the War Department, or the Department of the Navy.* The maximum price shall be computed by adding the sum of the following:

(i) The cost of the machine or part to the Defense Plant Corporation, the War Department, or the Department of the Navy, f. o. b. the plant of the manufacturer of the machine or part;

(ii) The freight paid by the Defense Plant Corporation, the War Department, or the Department of the Navy from the plant of the manufacturer of the machine or part to the plant of the purchaser;

(iii) The cost to the Defense Plant Corporation, the War Department, or the Department of the Navy of unloading the machine or part at the plant of the purchaser;

(iv) The cost to the Defense Plant Corporation, the War Department, or the Department of the Navy of the installation of the machine or part in the plant of the purchaser;

(v) Interest on items (i) to (iv), inclusive, at the rate actually charged the purchaser under the agreement of lease between the Defense Plant Corporation, the War Department, or the Department of the Navy and the purchaser, or if no interest rate was specified in such agreement the average rate charged by the Defense Plant Corporation, the War Department, or the Department of the Navy to other lessees of comparable machines and parts, such interest to be computed from the date that each of such items was paid by the Defense Plant Corporation, the War Department, or the Department of the Navy to the date of sale.

(vi) Direct expenses actually incurred by Defense Plant Corporation, the War Department, or the Department of the Navy and normally charged the purchaser under the agreement of lease between Defense Plant Corporation, the War Department, or the Department of the Navy and the purchaser; or, if no provision for direct expenses is specified

in such agreement, direct expenses actually incurred by Defense Plant Corporation, the War Department, or the Department of the Navy and normally charged by Defense Plant Corporation, the War Department, or the Department of the Navy to other lessees of comparable machines and parts.

From the sum of items (i) to (v), inclusive, deduct depreciation on the original total cost of acquisition by Defense Plant Corporation, the War Department, or the Department of the Navy at the rate of eight percent (8%) per annum from the date of initial use after acquisition by Defense Plant Corporation, the War Department, or the Department of the Navy of such machine or part, except that in the event of sale within ninety (90) days after such initial use no depreciation shall be deducted.

(2) *Where the purchaser is a person other than the first lessee of the machine or part.* The maximum price delivered to the plant of the purchaser shall be computed by adding the sum of the following:

(i) The cost of the machine or part to the Defense Plant Corporation, the War Department, or the Department of the Navy, f. o. b. the plant of the manufacturer of the machine or part;

(ii) An allowance equal to the freight charge for transportation of such machine or part from the location of the machine or part at the time of purchase to the plant of the purchaser.

From the sum of items (i) and (ii), deduct depreciation on the original total cost of acquisition by Defense Plant Corporation, the War Department, or the Department of the Navy at the rate of eight percent (8%) per annum from the date of initial use after acquisition by Defense Plant Corporation, the War Department, or the Department of the Navy of such machine or part, except that in the event of sale within ninety (90) days after such initial use no depreciation shall be deducted.

(3) To the maximum price of any second-hand machine or part, as computed in accordance with paragraphs 1 or 2 above, the Defense Plant Corporation, the War Department, or the Department of the Navy may add the amount of any tax upon the sale or delivery of such machine or part and shall bill such tax separately from the price of such machine or part.

[Paragraph (g) amended by Am. 87, 8 F.R. 7197, effective 6-2-43 and Am. 99, 8 F.R. 13124, effective 9-30-43]

(h) *Sales between corporations entitled to file affiliated returns under the Internal Revenue Code—(1) Price.* Notwithstanding any other provision of this section, in the case of a second-hand machine or part which is (i) sold by one corporation to another corporation both of which are members of an affiliated group as defined in section 141 of the Internal Revenue Code, and (ii) is acquired by the purchasing corporation for the processing or fabricating of other commodities and not for resale in the same or in a fabricated form, the maximum price shall be the selling corporation's book value of such machine or part less depreciation computed at the rate and in the manner used by the selling

corporation in the preparation of its federal income tax return.

(2) *Report.* Within ten days after any sale of a second-hand machine or part at a price determined pursuant to subparagraph (1) above, the selling corporation shall file with the Machinery Branch, Office of Price Administration, Washington, D. C., a report containing a description of the machine or part, the name and address of the purchasing corporation, the date of acquisition of the machine or part by the selling corporation, the selling price, a computation of the maximum price, in accordance with subparagraph (1) and an original statement of the purchasing corporation that the machine or part has been acquired for the processing or fabricating of other commodities and not for resale in the same or in a fabricated form.

(1) *Further regulations or orders.* If the maximum price provisions of this regulation for second-hand machines or parts are not adaptable to the pricing of particular machines or parts, or if they permit the charging of prices in excess of prices which could be obtained if sufficient new machines or parts were available, the Price Administrator may by separate regulation or order establish other maximum prices for the sale or delivery of such second-hand machines or parts.

(j) The maximum price of any second-hand machine or part sold in the Territory of Alaska shall be determined in accordance with the applicable provisions of this section, except that there may be added to the price so determined the amount of the actual cost of transportation of such machine or part from Seattle, Washington to its present location in Alaska.

[Paragraph (j) added by Am. 88, 8 F.R. 7260, effective 6-3-43]

[§ 1390.11 amended by Am. 1, 7 F.R. 5665, effective 7-22-42; Am. 54, 7 F.R. 9729, effective 11-25-42; Am. 76, 8 F.R. 4476, 12793, effective 4-10-43 and as otherwise noted]

§ 1390.12 *Maximum prices; leases.* (a) If for any machine or part the lessor thereof had a published or established rental rate in effect on October 1, 1941, (as defined in § 1390.5 (c)), the maximum rental rate shall be determined as provided in § 1390.5.

[Paragraph (a) amended by Am. 106, 8 F.R. 16132, effective 12-1-43]

(b) If for any machine or part, the lessor thereof had no published or established rental rate in effect on October 1, 1941, the maximum rental rate shall be the rental rate approved in writing by the Office of Price Administration after the lessor has submitted the report required by subparagraph (1). Such rental rate shall be in line with the rental rates charged on October 1, 1941, for the rental of machines or parts the same as, or similar to, the one being rented. Unless the Office of Price Administration shall in writing within 30 days after receipt of the report required by subparagraph (1) disapprove the maximum price as reported, such price shall be deemed to have been approved, subject to disapproval or adjustment at any time by the Office of Price Administration.

Within five days prior to the filing of such report and during such

30 day period, such lessor may quote, contract, or lease any such machine or part at the proposed rental and may make delivery, but no rental payment shall be made until a maximum rental rate has been established either by the approval of the Office of Price Administration or its failure to disapprove within 30 days after receipt of the lessor's report. Payment shall be in accordance with the established maximum rental rate. No rental payment shall be received by a person who has leased a machine or part without submitting a report required by this paragraph. The Office of Price Administration may of its own accord set the maximum rental rate for any machine or part which has been delivered under a lease or rental and for which the report required by this paragraph has not been submitted to the Office of Price Administration within five days after delivery. Such a maximum rental rate shall be in line with the level of maximum rental rates authorized by this section.

(1) The lessor of a machine or part shall file a report with the Office of Price Administration, Washington, D. C., containing a description in detail of the machine or part he proposes to rent, including the name of the manufacturer and the model number, the proposed rental rate, the proposed billing date, and the relevant price data used by the lessor in arriving at the proposed rental rate. If such lessor desires such rental to become the maximum rental applicable to subsequent leases and deliveries of such a machine or part, a statement that the report is also filed pursuant to § 1390.13 should be included.

[Paragraph (b) amended by Am. 93, 8 F.R. 8839, effective 7-1-43 and Am. 106, 8 F.R. 16132, effective 12-1-43; subparagraph (b) (2) revoked by Am. 93.]

§ 1390.13 *New list prices.* (a) Any person who desires or is required in writing by the Office of Price Administration to establish a list price for any machine or part or machinery service shall file a report pursuant to paragraph (b) hereof, containing a proposed price determined under §§ 1390.7 or 1390.8 (Manufacturer's Sales), 1390.9 (Machinery Services), 1390.10 (Re-seller's Sales), or 1390.12 (Leases), and such price shall thereafter be the maximum price: *Provided*, That the Office of Price Administration either approves such price in writing or fails to disapprove it within thirty days after receipt of the report. Such price may be disapproved only on the ground that it was not computed in accordance with the applicable provisions of this regulation or because the Office of Price Administration finds that a computation at a later date may result in a lower maximum price.

(b) Under the circumstances set forth in paragraph (a), a report shall be filed with the Office of Price Administration, Washington, D. C., containing the proposed list price, the proposed effective date, the class or classes of purchasers to whom such price is to be quoted, all relevant data used in determining such price, and evidence that such price was determined in accordance with the applicable provisions of this regulation.

(c) This section is not applicable to manufacturers' maximum prices for any

machine or part that must be priced under § 1390.6.

[Paragraph (c) added by Am. 115, 9 F.R. 4134, effective 4-18-44]

§ 1390.14 Reports on cost-plus contracts. Any person who has agreed to sell or deliver any machine or part or to perform any manufacturing service pursuant to a cost-plus-a-fixed-fee or cost-plus-a-percentage-of-cost contract shall on or before August 1, 1942, or within ten days after entering into such contract file a report with the Office of Price Administration, Washington, D. C., containing a copy or a summary of such contract.

§ 1390.15 Emergency service charges. Notwithstanding any other provision of this regulation, any manufacturer or machinery service supplier may add to the maximum price for a machine or part or machinery service the extra material cost resulting from his purchasing materials (not including parts and subassemblies), in an emergency and at the request of the customer, from a source more expensive than the current usual source. Also, any manufacturer, other seller, lessor or machinery service supplier may add to the maximum price for a machine or part or a machinery service his extra transportation cost resulting from his shipping the machine or part or materials used in the production of the machine or part or the supplying of the machinery service, in an emergency and at the request of the customer, by means more expensive than the current usual method of shipping. No markup, overhead or profit shall be applied to the extra material or transportation cost. The extra charges allowed by this paragraph shall be billed separately on the invoice, and a copy of the invoice must be immediately forwarded to the Machinery Branch, Office of Price Administration, Washington, D. C.

[§ 1390.15 amended by Am. 108, 9 F.R. 2032, effective 2-26-44.]

§ 1390.16 Federal and state taxes. (a) Any tax levied by any statute of the United States or statute or ordinance of any state or subdivision thereof which the seller on October 1, 1941, added to the price paid by the purchaser shall not be included in the maximum price but may be collected by the seller in addition to the maximum price if such tax is stated separately from the purchase price, except that such tax need not be stated separately if it is measured by the seller's cost of such machine or part.

(b) Any tax upon the sale or delivery of a machine or part and any compensating use tax upon a machine or part levied by any statute of the United States or statute or ordinance of any state or subdivision thereof and becoming effective on or after October 1, 1941, may also be collected by the seller making such taxable sale or delivery in addition to the maximum price if such tax is stated separately from the purchase price, unless the seller had increased his price on or before October 1, 1941, to reflect such new or increased tax, except that such tax need not be stated separately if it is measured by the seller's cost of such machine or part.

[Paragraphs (a) and (b) amended by Am. 54, 7 F.R. 9729, effective 11-25-42]

(c) (1) Any separately stated tax paid by a purchaser for resale upon the purchase of a machine or part may be collected by such purchaser in addition to the maximum price upon the resale of such machine or part unless the purchaser's price in effect on October 1, 1941, reflected the amount of such tax.

(2) Any tax paid by a manufacturer upon the purchase of a part which can be delivered separately from the principal assembly of the complete machine may also be collected by the manufacturer upon the sale of the complete machine, as well as upon the sale of the part separately, if such tax is stated separately from the purchase price, unless the manufacturer's price for the machine or for the part in effect on October 1, 1941, reflected the amount of such tax.

§ 1390.17 Export sales. The maximum price at which a person may export a machine or part shall be determined in accordance with the methods provided in the Maximum Export Price Regulation issued by the Office of Price Administration. An "export sale" is any sale between a seller in the Continental United States and a purchaser outside thereof in which the commodity sold is transported from the Continental United States to a point outside thereof and includes any sale of a commodity outside the Continental United States by an agent of the exporter or by a corporation owned or controlled by the exporter within a period of two years after the date of shipment of the commodity from the Continental United States.

§ 1390.18 Contract prices, renegotiations, price-adjustment agreements, and price increases—(a) Existing contracts. Notwithstanding the provisions of § 1390.3, any person may until September 1, 1942, deliver, perform, or receive, or make or receive payment for, any machine or part or machinery service pursuant to a contract entered into prior to July 22, 1942, at the price provided in such contract: *Provided*, That on or before September 1, 1942, the contract price shall be revised so as not to exceed the maximum price computed in accordance with the provisions of this regulation and that refunds or other allowances in accordance with such recomputation are made as to deliveries made or services performed on or after July 22, 1942. In computing the maximum price for purposes of this section, no upward adjustment shall be made, and no downward adjustment need be made, for changes in the clock hours of labor or in the quantities of materials required or estimated to be required, which have occurred since the date of entering into the contract or since the date of the last change in the contract price.

[Paragraph (a) amended by Am. 25, 7 F.R. 7912, effective 10-9-42]

(b) *Prices for deliveries pursuant to a firm-price contract.* Except as provided in § 1390.7 (c) (4), when the maximum price applicable to a firm price contract for the sale and delivery of any machine or part or for machinery services has been determined in accordance with the

provisions of this regulation, the maximum price need not be recomputed for any subsequent deliveries pursuant to such contract unless the contract price is revised by renegotiation or adjustment in accordance with paragraphs (c) or (d) of this section.

[Former paragraph (c) amended by Am. 106, 8 F.R. 16132, effective 12-1-43; and revoked by Am. 115, 9 F.R. 4134, effective 4-18-44. Former (d), (e), (f), and (g) redesignated (c), (d), (e), and (f)]

(c) *Renegotiations.* If a contract for the sale and delivery of machines and parts or for machinery services has been or is entered into at a price which does not exceed the maximum price, computed as of the time of entering into such contract, or has been revised in accordance with any of the provisions of this section, the contract price may be reduced at any time without recomputation of the maximum price, and may be increased by renegotiation if the price, as so increased, does not exceed the maximum price computed as of the time of such renegotiation and if a report is made pursuant to paragraph (f) of this section.

(d) *Adjustable pricing.* If the seller, lessor or supplier wishes, he may agree with the buyer or lessee to charge a price which can be increased up to the maximum price in effect at the time of delivery. Where the seller or supplier has filed an application for adjustment under § 1390.25a, he may, in accordance with the provisions of that section, deliver at a price which will be adjusted upwards in accordance with the action taken by the Office of Price Administration on his application. In all other cases, unless authorized by the Office of Price Administration, the seller, lessor or supplier must not deliver at a price which is to be adjusted upwards in accordance with action by the Office of Price Administration after delivery. This authorization will be given only where: (1) a request for a change in the applicable price is pending; (2) authorization is necessary to promote distribution or production; and (3) it will not interfere with the purposes of the Emergency Price Control Act of 1942, as amended.

[Paragraph (d), formerly (e), amended by Am. 104, 8 F.R. 15462, effective 11-9-43]

(e) *New contracts.* Whenever a new contract is entered into for the sale and delivery of machines or parts or for machinery services for which there was no published list price or established price in effect on October 1, 1941, and which has previously been sold or supplied, the applicable maximum price shall be recomputed as of the time of entering into the new contract. For the purposes of this regulation any extension of an existing contract which provides for the delivery of a greater number of machines or parts, or for a greater number of hours or other units of machinery services, than were originally contracted for shall be deemed to be a new contract.

(f) *Price increases.* If the price of any machine or part or machinery service computed in accordance with the provisions of § 1390.7 is at any time increased above the price charged on the

previous sale or delivery or is increased above the original contract price by renegotiation or by a price adjustment clause, unless the increase is definitely assignable to a change in specifications or a change in conditions of delivery, the seller thereof shall file with the Office of Price Administration, Washington, D. C., within ten days after making any sale or delivery at such increased price, or agreeing upon such increased price, a report containing: (1) a description of the machine or part or machinery service; (2) the price on the sale prior to the price increase, the date of such sale and the name and description of the purchaser; (3) the price charged on October 1, 1941, or on the first sale subsequent thereto, and the date of such sale; (4) the new price; (5) the date of entering into the contract providing the increased price; (6) the name and description of the purchaser; and (7) an explanation of the higher price: *Provided*, That if the price of a machine or part or machinery service has previously been reported pursuant to this paragraph without objection from the Office of Price Administration, the manufacturer shall not be required to report subsequent sales or deliveries at the same or a lower price.

§ 1390.19 Less than maximum prices. Lower prices, rentals, or charges than those set forth in this regulation may be charged, demanded, paid or offered.

§ 1390.20 Evasion. (a) It shall be a violation of this regulation to effect a price increase above the applicable maximum price in connection with any sale, lease or delivery of any machine or part, or with the supplying of any machinery service by changing discounts or customary price differentials among classes of purchasers; by making minor changes in machines or parts or machinery services having published price lists or established prices in effect on October 1, 1941, (as defined in § 1390.5 (c)); by requiring a customer to furnish material for processing not in accordance with previous practice; by entering into a joint venture with any other person subject hereto for cross-selling, cross-purchasing, or cross-servicing; by reducing the period of any guaranty or warranty of performance; by eliminating or reducing any maintenance, repair or installation service; by undervaluing commodities received in trade; by eliminating or reducing rental credits on purchases; or by any other change in terms or conditions of sale, lease, or contract. It shall also be a violation of this regulation for any person to pay, in connection with the purchase or rental of any machine or part, whether new or used, or the purchase of any machinery service, any fees, commissions, or other compensation, whether for broker's, agent's or finder's services, or otherwise, which, when added to the amount paid by such person for the purchase or rental of such machine or part or the purchase of such machinery service would result in a total sum exceeding the applicable maximum price established by this regulation.

[Paragraph (a) amended by Am. 96, 8 F.R. 10662, effective 8-12-43 and Am. 106, 8 F.R. 16132, effective 12-1-43]

(b) The Office of Price Administration may, upon request, grant written permission to any person subject to this regulation, to change a term or condition of sale, lease or contract in effect on October 1, 1941 where such change is necessitated by orders issued by the War Production Board, the Board of Governors of the Federal Reserve System or any other agency of the United States, or by other conditions caused by the war.

§ 1390.21 Developmental contracts and subcontracts. (a) This regulation shall not apply to any sale or delivery of a machine or part or to any machinery service performed pursuant to a contract or subcontract certified in writing to the Office of Price Administration by the United States or any agency thereof as being developmental: *Provided*, That a report is filed pursuant to paragraph (b). For the purposes of this section, a contract is deemed to be "developmental" during the period required for the selection of a product by the purchaser or for the accumulation of sufficient production experience by the manufacturer or supplier to permit a fair estimate of the manufacturing costs, or both. After the Office of Price Administration shall have determined after consultation with the appropriate government agency that the period necessary for development has expired, and has in writing so notified such agency and the manufacturer or machinery service supplier, this regulation shall apply to all subsequent sales and deliveries of such machine or part or to all such machinery services performed thereafter.

(b) Within ten days after entering into any such developmental contract or subcontract the manufacturer or machinery service supplier shall file a report with the Office of Price Administration, Washington, D. C., containing a description of the product or products to be manufactured or the machinery services to be supplied, a summary of the terms of the contract or subcontract including all pricing provisions, a short statement of the production plan of which this contract is a part, and an estimate of the expected duration of such developmental work. For any such contract or subcontract in effect on July 22, 1942 such report shall be filed prior to August 15, 1942.

(c) In the case of a developmental contract or subcontract which is also classified as "confidential" or "restricted" by any agency of the United States, if such agency states that such contract is "confidential" or "restricted" in the certification required by paragraph (a), the provisions of paragraph (b) shall not be applicable.

[Paragraph (c) added by Am. 81, 8 F.R. 5567, effective 5-1-43]

§ 1390.22 Secret contracts. This regulation shall not apply to any sale or delivery of a machine or part or to the sale of any machinery service pursuant to a contract or subcontract which is deemed to be a "secret" contract and is so certified to the Office of Price Administration by the United States or any agency thereof. Such certification shall set forth the date of the "secret" contract and its number or other designa-

tion. After the Office of Price Administration shall have received notice from the United States or the certifying agency that such contract is no longer deemed to be secret, this regulation shall apply to all subsequent sales and deliveries of such machine or part, or to all such machinery services completed thereafter.

§ 1390.23 Emergency purchases. (a) This regulation shall not apply to any sale or delivery pursuant to any emergency purchase by the United States or any agency thereof for immediate delivery of any machine or part or immediate performance of any machinery service: *Provided*, That if the total price exceeds \$500, a report is filed pursuant to paragraph (b).

(b) Within ten days after making any such emergency purchase in the amount of more than \$500, at a price which is known or suspected by the purchaser to be in excess of the maximum price, any person making such purchase on behalf of the United States or any agency thereof shall file a report with the Office of Price Administration, Washington, D. C., certifying that such purchase was made in a situation in which it was imperative to secure the machine, part, or machinery service immediately and in which it was impossible to secure, or unfair to require, immediate delivery or performance at the applicable maximum price and setting forth (1) the name and address of the seller or supplier; (2) date of purchase; (3) date of delivery or performance; (4) description of the machine or part purchased or machinery service performed; (5) quantity purchased; (6) price at which purchased; and (7) a brief statement of the facts giving rise to the emergency situation which necessitated the purchase at a price higher than the applicable maximum price.

§ 1390.24 Privileges accorded to certain foreign governments. The privileges accorded to the United States or any agency thereof by § 1390.21 (Developmental contracts and subcontracts), § 1390.22 (Secret contracts) and § 1390.23 (Emergency purchases) shall apply to the government of any country whose defense the President deems vital to the defense of the United States under the terms of the Act of March 11, 1941, entitled "An Act to Promote the Defense of the United States," or to any agency of any such government.

§ 1390.25 Petitions for amendment—(a) Amendments. Any person seeking an amendment of any provision of this regulation may file a petition for amendment in accordance with the provisions of Revised Procedural Regulation No. 1 issued by the Office of Price Administra-

[Section heading amended by Am. 78, 8 F.R. 4516, effective 4-10-43. Former paragraph (a) amended by Am. 1, 7 F.R. 5665, effective 7-22-42 and revoked by Am. 78. Paragraph (b) revoked by Am. 57, 7 F.R. 9823, effective 12-1-42. Former paragraph (c) amended by Supplementary Order 26, 7 F.R. 8948, effective 11-4-42 and redesignated (a) by Am. 78]

(1) Mica capacitors. Notwithstanding any other provisions of this regulation, manufacturers of mica capacitors may add to the maximum price provided

herein increases in unit cost due to increases realized subsequent to March 31, 1942, in the cost of block mica and in the cost of splitting and cutting mica film, except that nothing in this subparagraph shall permit the addition of an increase in cost due to an increase in labor rates subsequent to March 31, 1942.

[Subparagraph (1) added by Am. 1, 7 F.R. 5665, effective 7-22-42]

(2) *American Saw Mill Machinery Company.* Notwithstanding the provisions of §§ 1390.5 and 1390.6 the maximum price applicable to the sale to any purchaser of any item of woodworking or sawmill machinery, manufactured and sold by the American Saw Mill Machinery Company, Hackettstown, New Jersey, shall be the list price for such item in effect on October 1, 1941, subject to the discounts in effect to purchasers of the same class on November 1, 1941, and the maximum price applicable to the sale to any purchaser of any radial saw or part thereof manufactured and sold by said Company shall be the list price in effect on October 1, 1941, subject to the discounts in effect to purchasers of the same class on February 20, 1942.

[Subparagraph (2) added by Am. 4, 7 F.R. 6682, effective 8-26-42]

(3) *Monarch Engineering and Manufacturing Company.* Notwithstanding the provisions of §§ 1390.5 and 1390.6, the maximum price applicable to the sale of any industrial furnace, oven or ladle heater manufactured and sold by the Monarch Engineering and Manufacturing Company, Baltimore, Maryland, for which such Company had a published or confidential list price in effect on October 1, 1941 shall be the net price determined in accordance with the provisions of § 1390.5, plus an amount equal to 4½% of such net price.

[Subparagraph (3) added by Am. 5, 7 F.R. 6682, effective 8-26-42]

(4) *Middlesex Manufacturing Company.* Notwithstanding the provisions of §§ 1390.5 and 1390.6, the maximum price applicable to the sale of any shoe rack or accessory manufactured and sold by the Middlesex Manufacturing Company, Medford, Massachusetts, for which such Company had a published or confidential list price in effect on October 1, 1941, shall be the net price determined in accordance with the provisions of § 1390.5, plus an amount equal to 10% of such net price.

[Subparagraph (4) added by Am. 6, 7 F.R. 6682, effective 8-26-42]

(5) *Petrometer Corporation.* Notwithstanding the provisions of §§ 1390.5 and 1390.6, the maximum price applicable to the sale of any mechanical instrument or part manufactured by Petrometer Corporation, Long Island City, New York, shall be determined pursuant to the provisions of § 1390.5, except that the date October 27, 1941 shall be substituted for the date October 1, 1941, wherever that date appears in § 1390.5.

[Subparagraph (5) added by Am. 7, 7 F.R. 6899, effective 9-4-42]

(6) *Select-O-Phone Company, a division of Screw Machine Products Company, Inc.* Notwithstanding the provi-

sions of §§ 1390.5 and 1390.6, the maximum price applicable to the sale of any of the private automatic telephones and parts therefor, manufactured and sold by the Select-O-Phone Company, a division of Screw Machine Products Company, Inc., 1012 Eddy Street, Providence, Rhode Island, for which the Select-O-Phone Company had a published or confidential list price in effect on October 1, 1941, shall be the price contained in the January 15, 1942, price lists issued by said Select-O-Phone Company.

[Subparagraph (6) added by Am. 8, 7 F.R. 6964, effective 9-2-42]

(7) *Filtration Engineers, Incorporated.* Notwithstanding the provisions of § 1390.7, the maximum price applicable to the sale by Filtration Engineers, Incorporated of any filter or part for which it had no published or confidential list price in effect on October 1, 1941, shall be determined in accordance with the provisions of § 1390.7, except that the price-determining method in effect on October 1, 1941, shall be modified in that manufacturing or factory overhead shall be calculated as 150% of direct labor cost (instead of 100%).

[Subparagraph (7) added by Am. 9, 7 F.R. 6964, effective 9-2-42]

(8) *International Telephone and Radio Manufacturing Corporation.* Notwithstanding the provisions of §§ 1390.5 and 1390.6 the maximum price applicable to the sale of any selenium rectifier stacks and parts manufactured and sold by the International Telephone and Radio Manufacturing Corporation, East Newark, New Jersey, for which said Corporation had a published or confidential list price in effect on October 1, 1941, shall be the price determined in accordance with the following method: Material costs as of October 1, 1941, plus labor rates in effect on March 31, 1942, plus factory overhead of 100% of direct labor costs at such rates, plus administrative, commercial and developmental expense of 15% of sales, plus a markup of 10% of the aggregate of the aforesaid factors. The discounts which the said corporation may use shall be the discounts filed by it with the Office of Price Administration on or before July 14, 1942. A report of its new list prices computed in accordance with the aforesaid method, shall be filed by the Corporation, pursuant to § 1390.13.

[Subparagraph (8) added by Am. 10, 7 F.R. 6965, effective 9-2-42]

[Subparagraph (9) added by Am. 11, 7 F.R. 6937, effective 8-28-42; amended and redesignated paragraph (n) of § 1390.2 by Am. 58, 7 F.R. 9899, effective 11-26-42]

(10) *Counties of the State of Michigan.* Notwithstanding the provisions of §§ 1390.5 and 1390.12, the maximum price applicable to the rental of any machine or part to the State of Michigan by the Board of County Road Commissioners of any County of the State of Michigan shall be the price agreed upon between the State of Michigan and its Counties on July 21, 1942, as set forth in the rate sheets filed with the Office of Price Administration on August 17, 1942.

[Subparagraph (10) added by Am. 14, 7 F.R. 6973, effective 9-8-42]

(11) *Gilfillan Machine Works, Inc.* Notwithstanding the provisions of § 1390.5, the maximum price applicable to the sale by Gilfillan Machine Works, Inc., of Ebenezer, New York, of its Type DS No. 816 House Service Gas Regulator, shall be \$8.00; the maximum price applicable to the sale by said Company of any other machine or part for which a list price was in effect on October 1, 1941, shall be the maximum price determined in accordance with the provisions of § 1390.5, except that the 2% ten day cash discount may be eliminated.

[Subparagraph (11) added by Am. 17, 7 F.R. 7320, effective 9-21-42]

(12) *Northwestern Motor Company.* Notwithstanding the provisions of §§ 1390.5 and 1390.6, the maximum price applicable to the sale of any railway motor car manufactured and sold by the Northwestern Motor Company, Eau Claire, Wisconsin, for which the said Company had a published or confidential list price in effect on October 1, 1941, shall be the net price determined in accordance with the provisions of § 1390.5 plus Sixty Dollars (\$60), when such car is one of the following series, viz:

No. 561-V8-85— Extra gang car.

No. 561-HV-8-85. Hump and extra gang car.

No. 581-V8-85— Power ballast diser.

[Subparagraph (12) added by Am. 18, 7 F.R. 7365, effective 9-16-42]

(13) *Jeff Hunt Road Machinery Company.* Notwithstanding the provisions of § 1390.9, the maximum price applicable to the performance by the Jeff Hunt Road Machinery Company of Columbia, South Carolina, of any of the machinery services listed below shall be \$1.75 per hour for straight time and \$2.20 per hour for overtime, on the basis of a 56-hour work week:

Services of field serviceman.

Services of serviceman helper.

Travel time, (for each man over one).

Painting.

Services of mechanic.

Services of mechanic's helper.

Welding, acetylene or electric.

Services of machinist.

Services of blacksmith.

Cleaning, high-pressure steam.

This paragraph shall not apply to rates for track work on crawler tractors and for removing and replacing track shoes.

[Subparagraph (13) added by Am. 19, 7 F.R. 7509, effective 9-26-42]

(14) *J. A. Lang & Sons Co.* Notwithstanding the provisions of §§ 1390.5 and 1390.6, the maximum prices applicable to the sale of any laundry listing machine or part manufactured by J. A. Lang & Sons Co., Boston, Massachusetts shall be determined pursuant to the provisions of § 1390.5, except that the date November 1, 1941, shall be substituted for the date October 1, 1941 wherever that date appears in § 1390.5.

[Subparagraph (14) added by Am. 20, 7 F.R. 7602, effective 9-30-42]

(15) *Micro-Westco, Inc.* Notwithstanding the provisions of § 1390.9 the maximum charge applicable to the servicing of machines by Micro-Westco, Inc., Bettendorf, Iowa, shall be at the rate of \$2.65 per hour, including travel-time

when performed during the regular hours of the working day.

[Subparagraph (15) added by Am. 21, 7 F.R. 7739, effective 10-3-42]

(16) *The Electro Motive Manufacturing Company.* Notwithstanding the provisions of §§ 1390.5 and 1390.6, on and after July 22, 1942, the maximum price applicable to the sale and delivery of any capacitor or part manufactured and sold by Philip and Josephine Lauter, doing business under the firm name and style of The Electro Motive Manufacturing Company, Willimantic, Connecticut, for which the company had a published or confidential list price in effect on October 1, 1941, shall be the price for such item filed by the company with the Office of Price Administration as part of price computations accompanying protest docketed as No. 1136-223-P.

[Subparagraph (16) added by Am. 22, 7 F.R. 7744, effective 9-28-42]

(17) *Teesdale Manufacturing Company.* Notwithstanding the provisions of §§ 1390.5 and 1390.6, the maximum price applicable to the sale of any automatic pump or automatic force pump manufactured by the Teesdale Manufacturing Company, Grand Rapids, Michigan, shall be determined pursuant to the provisions of § 1390.5, except that the date February 1, 1942 shall be substituted for the date October 1, 1941 wherever that date appears in § 1390.5.

[Subparagraph (17) added by Am. 23, 7 F.R. 7907, effective 10-8-42]

(18) *Brandtjen & Kluge, Inc.* Notwithstanding the provisions of § 1390.11, the maximum price applicable to the sale of a rebuilt Brandtjen & Kluge press by Brandtjen & Kluge, Inc., of St. Paul, Minnesota, guaranteed for one year, shall be 90% of the highest maximum price to any class of purchasers for the nearest equivalent new Brandtjen & Kluge press established by this regulation, the resultant price to be subject to the applicable discount or discounts in effect on October 1, 1941.

[Subparagraph (18) added by Am. 26, 7 F.R. 7945, effective 10-5-42]

(19) *The Parks Woodworking Machine Company.* Notwithstanding the provisions of §§ 1390.5 and 1390.6, the maximum price applicable to the sale by The Parks Woodworking Machine Company, Cincinnati, Ohio, of any woodworking machine except the No. 95 12" Heavy Duty Planer shall be determined pursuant to the provisions of § 1390.5, except that the date November 15, 1941, shall be substituted for the date October 1, 1941 wherever that date appears in § 1390.5: *Provided*, That said company shall have notified its dealers that they may not charge prices higher than their maximum prices established by this regulation. The maximum price for the No. 95 12" Heavy Duty Planer shall be determined pursuant to the provisions of § 1390.5.

[Subparagraph (19) added by Am. 29, 7 F.R. 8198, effective 10-15-42]

(20) *Union Fork and Hoe Company.* Notwithstanding the provisions of §§ 1390.5 and 1390.6 the maximum price applicable to the sale of twenty-three (23) #303 Rome Diesel Powered Road

Graders manufactured by the Rome Grader and Machinery Division of the Union Fork and Hoe Company, Columbus, Ohio, shall be \$5,000.54 net each: *Provided*, That if any such grader is sold to a dealer, the said Company shall notify such dealer that he may not resell such grader at a price in excess of his maximum price for such grader established by this regulation.

[Subparagraph (20) added by Am. 30, 7 F.R. 8198, effective 10-6-42]

(21) *Lead acid storage batteries and parts.* Notwithstanding any other provisions of this regulation, the maximum price applicable to the sale by any person subject to this regulation of any lead acid storage battery or part shall be the higher of the following:

(i) The net price determined in accordance with the applicable provisions of §§ 1390.5, 1390.7 or 1390.10, plus an amount not exceeding one cent for each pound, or major fraction of a pound, of lead contained in such battery or part; or

(ii) The net price determined in accordance with the applicable provisions of §§ 1390.5, 1390.7 or 1390.10, but substituting in such sections the date February 1, 1942, for the date October 1, 1941.

[Subparagraph (21) added by Am. 31, 7 F.R. 8362, 8433, effective 10-15-42 and amended by Am. 61, 7 F.R. 10230, effective 11-7-42, Am. 70, 8 F.R. 3314, effective 3-22-43, and Am. 106, 8 F.R. 16132, effective 12-1-43]

(22) *Elmira Lubricator Company, Inc.* Notwithstanding the provisions of §§ 1390.5 and 1390.6, the maximum price applicable to the sale by Elmira Lubricator Company, Inc., Elmira, New York, of any lubricating device manufactured by it shall be determined pursuant to the provisions of § 1390.5, except that the date January 1, 1942 shall be substituted for the date October 1, 1941 wherever that date appears in § 1390.5.

[Subparagraph (22) added by Am. 33, 7 F.R. 8520, effective 10-26-42]

(23) *Hunter Tractor and Machinery Company.* Notwithstanding the provisions of § 1390.9, the maximum charge applicable to any machinery service supplied by Hunter Machinery Company, Milwaukee, Wisconsin, in connection with the repair, rebuilding and maintenance of machines and parts shall be at the rate of \$2.05 per hour.

[Subparagraph (23) added by Am. 34, 7 F.R. 8652, effective 10-29-42]

(24) *The Tabor Manufacturing Company.* Notwithstanding the provisions of §§ 1390.5 and 1390.6, the maximum price applicable to the sale by The Tabor Manufacturing Company, Philadelphia, Pennsylvania of a Jar-Ram, Power Squeeze, Trunnion type, Rollover Machine with 15" diameter squeeze cylinder, electrically operated, shall be \$2750 f. o. b. Philadelphia.

[Subparagraph (24) added by Am. 35, 7 F.R. 8707, effective 10-30-42]

(25) *The Topeka Foundry and Iron Works Company.* Notwithstanding the provisions of § 1390.9, the maximum charge applicable to any machinery service supplied by the Topeka Foundry and Iron Works Company, Topeka, Kan-

sas, in connection with the repair, rebuilding and maintenance of machines and parts shall be at the rate of \$2.20 per hour.

[Subparagraph (25) added by Am. 38, 7 F.R. 9040, effective 11-10-42]

(26) *American Raw Hide Products Co.* Notwithstanding any other provisions of this regulation, the maximum price applicable to the sale of any loom picker manufactured by American Raw Hide Products Co., Providence, Rhode Island, shall be the price determined in accordance with this regulation, multiplied by 1.4.

[Subparagraph (26) added by Am. 39, 7 F.R. 9040, effective 11-10-42]

(27) *J. F. Kidder Manufacturing Co., Inc.* Notwithstanding the provisions of §§ 1390.5 and 1390.6, the maximum price applicable to the sale by J. F. Kidder Manufacturing Co., Inc., of any of the punches and dies listed on page 4, column 1, of its catalogue No. 41 dated September 1, 1941, shall be determined in accordance with the provisions of § 1390.5 except that the 10% discount for such punches and dies when sold in dozen lots may be eliminated.

[Subparagraph (27) added by Am. 40, 7 F.R. 9040, effective 11-4-42]

(28) *Aget Manufacturing Company.* Notwithstanding the provisions of § 1390.5, the maximum price applicable to the sale by Aget Manufacturing Company, Adrian, Michigan, of the "Dust-kop" dust collector shall be \$85.

[Subparagraph (28) added by Am. 41, 7 F.R. 9040, effective 11-4-42]

(29) *L. H. Cook Research Laboratories, Limited.* Notwithstanding the provisions of § 1390.5, the maximum price applicable to the sale by L. H. Cook Research Laboratories, Limited, of any standard depth pressure recorder shall be the price determined in accordance with § 1390.5 multiplied by 1.1.

[Subparagraph (29) added by Am. 42, 7 F.R. 9041, effective 11-4-42]

(30) *Air Associates, Inc.* Notwithstanding any other provisions of this regulation, the maximum price applicable to a domestic sale by Air Associates, Inc., Bendix, New Jersey, of any Propeller Governor Test Unit-Type 820 shall be \$2158.

[Subparagraph (30) added by Am. 43, 7 F.R. 9041, effective 11-4-42]

(31) *John E. Fast & Co.* Notwithstanding the provisions of §§ 1390.5 and 1390.6, the maximum price applicable to the sale of any electrostatic condenser #CB-304 manufactured and sold by John E. Fast & Co., Chicago, Illinois to F. R. Mallory & Co., Inc., Indianapolis, Indiana shall be \$24.30 per hundred: *Provided*, That John E. Fast & Co. shall notify F. R. Mallory & Co., Inc. that F. R. Mallory & Co., Inc. may not resell such condenser in excess of the maximum price applicable to the sale of such condenser by F. R. Mallory & Co., Inc. established by this regulation.

[Subparagraph (31) added by Am. 44, 7 F.R. 9041, effective 11-4-42]

(32) *Sterling Electrical Motors, Inc.* Notwithstanding the provisions of

§§ 1390.5 and 1390.6, the maximum price applicable to the sale and delivery to any purchaser, of any electrical motor, generator or industrial control manufactured and sold by Sterling Electrical Motors, Inc., Los Angeles, California for which the Corporation had a published or confidential list price in effect on October 1, 1941 shall be such list price for such item, subject to the discount, to a purchaser of the same class, provided in the Optional Discount Schedule attached as Exhibit A to Administrative Notice No. 1, issued by the Office of Price Administration on April 16, 1942.

[Subparagraph (32) added by Am. 45, 7 F.R. 9041, effective 11-4-42]

(33) *Tempest Products Manufacturing Co.* Notwithstanding the provisions of §§ 1390.5 and 1390.6, the maximum price applicable to the sale by Tempest Products Manufacturing Co., Indianapolis, Indiana of its Check-N-Spect machine to Bowes Seal Fast Corporation, Indianapolis, Indiana shall be \$16.50

each: *Provided*, That Tempest Products Manufacturing Co. shall notify Bowes Seal Fast Corporation that Bowes Seal Fast Corporation may not charge a price higher than its maximum price established by this regulation.

[Subparagraph (33) added by Am. 46, 7 F.R. 9041, effective 11-4-42]

(34) *John E. Mitchell Co.* Notwithstanding the provisions of § 1390.5, the maximum price applicable to the sale by John E. Mitchell Company, Dallas, Texas, of bristle brushes for use in the Mitchell cotton cleaning machine shall be \$2.25.

[Subparagraph (34) added by Am. 47, 7 F.R. 9042, effective 11-4-42]

(35) *Frick-Reid Supply Corporation.* Notwithstanding the provisions of §§ 1390.5 and 1390.10 (a) and (b), the maximum prices applicable to the sale of any of the items listed below by Frick-Reid Supply Corporation, Tulsa, Oklahoma, shall be the price set opposite each such item:

Item	Manufacturer	Maximum prices (manufacturer's list prices in effect October 1, 1941)
Leather Valve Cups.		
Dry Pressed Leather.....	C. L. & W. W. Auer (Corry, Pa.).....	Less 76%.
Dry Pressed and Polished.....		Less 74%.
Star.....		Less 55%.
Forged Steel Ring Joint Flange Unions: 2", 2½", 3", 4", 5", 8"	Walworth Co. (New York, N. Y.).....	Less 33%.
Casing Spiders:		
Solid type:		
4½" - 5½" sizes.....	Larkin Packer Co. (St. Louis, Mo.).....	Less 10%.
7" O D size.....		Less 17-5%.
8¾" O D and larger.....		Less 7%.
Split Type Spiders.....		Less 8%.
Slips or Wedges.....		Less 5%.
Hinderliter-Hildren Tubing Supports:		
4¾" or 5¾" x 2" tubing.....	Larkin Packer Co. (St. Louis, Mo.).....	Less 10%.
x 2", 2½" or 3" tubing.....		Less 17-5%.
6½" or 6½" x 2" tubing.....	Hinderliter Tool Co. (Tulsa, Okla.).....	Less 7%.
x 2", 2½" or 3" tubing.....		Less 8%.
x 4" tubing.....		Less 5%.
8¼" x 3" x 2", 2½" or 3" tubing.....	Axelson Mfg. Co. (Los Angeles, Calif.).....	
4" tubing.....		
Pull Rod Couplings:		
No. 4329 34"		
No. 4330 76"		
No. 4342 1"		

All the above items are subject to cash discount of 2% 20th Prox.

[Subparagraph (35) added by Am. 48, 7 F.R. 9042, effective 11-4-42]

(36) *A. K. Robins & Company.* Notwithstanding the provisions of § 1390.5, the maximum price applicable to the sale by A. K. Robins & Company, Baltimore, Maryland, of its Improved Stringless Bean Slitter shall be \$850, equipped with belt drive, and \$950 equipped with motor drive.

[Subparagraph (36) added by Am. 49, 7 F.R. 9053, effective 11-4-42]

(37) *Unique Manufacturing Company.* Notwithstanding the provisions of §§ 1390.4, 1390.5 and 1390.6, the maximum price applicable for the sale of any machine tool attachments manufactured by Unique Manufacturing Company, Omaha, Nebraska, shall be determined pursuant to the provisions of §§ 1390.5 and 1390.6 except that the date April 10, 1942 shall be substituted for the date October 1, 1941 wherever that date appears in §§ 1390.5 and 1390.6.

[Subparagraph (37) added by Am. 50, 7 F.R. 9053, effective 11-4-42]

(38) *AC Spark Plug Division of General Motors Corporation.* Notwithstanding the provisions of § 1390.5, (i) the

maximum price applicable to the sale by AC Spark Plug Division of General Motors Corporation of any spark plug for military use for which the replacement price in March, 1942, was \$0.28, shall be \$0.15, whether sold for original equipment or as a replacement; (ii) the maximum price applicable to the sale by said Company of any patented Air Cleaner for military use for which the price in March, 1942, was \$0.965, shall be \$1.05.

[Subparagraph (38) added by Am. 51, 7 F.R. 9054, effective 11-4-42]

(39) *Louis Van Dorp Sheet Metal & Roofing Co., Inc.* Notwithstanding the provisions of §§ 1390.5 and 1390.6, the maximum price applicable to the sale by Louis Van Dorp Sheet Metal & Roofing Co., Inc., Topeka, Kansas, of the following sizes of its combination water gauge lamp and guard manufactured for the Santa Fe Railway System shall be the price set forth below opposite each size:

Size No. 3.....	Per dozen \$42.00
Size No. 4.....	43.00

Per dozen	
Size No. 6.....	\$44.00
Size No. 7.....	48.00
[Subparagraph (39) added by Am. 52, 7 F.R. 9054, effective 11-4-42]	

(40) *Machines and parts containing silver—(i) Maximum price.* Notwithstanding any other provisions of this regulation, except where another provision of this regulation permits the increase in cost due to the increased price of silver to be reflected in the maximum price (see §§ 1390.7 (c) (3) (i) and 1390.10 (c)), the maximum price for the sale by any seller of any machine or part containing silver shall be determined as follows: The maximum price shall be the sum of the price determined in accordance with all other applicable provisions of this regulation and an amount determined by multiplying the number of fine troy ounces of silver contained in the machine or part by 9.625 cents in the case of foreign silver and by 36.125 cents in the case of domestic or Treasury silver.

(ii) *Definitions.* When used in this paragraph, the term:

(a) "Domestic silver" means silver mined subsequent to July 1, 1939, from natural deposits in the United States or in any place subject to the jurisdiction thereof.

(b) "Treasury silver" means silver sold by the United States Treasury Department pursuant to an Act approved July 12, 1943, entitled "An Act to Authorize the Use for War Purposes of Silver Held or Owned by the United States" (Pub. Law 137, 78th Cong.).

(c) "Foreign silver" means any silver other than domestic or Treasury silver, as defined above.

[Subparagraph (40) added by Am. 53, 7 F.R. 9729, effective 11-25-42 and amended by Am. 108, 9 F.R. 2032, effective 2-26-44]

(41) *Sales of air conditioning and refrigerating equipment pursuant to War Production Board program.* (i) Notwithstanding any other provisions of this regulation, the maximum price applicable to the sale at the direction of the War Production Board of any industrial or commercial air conditioning or refrigerating equipment to the manufacturer of such equipment by a person using such equipment and not engaged in the business of selling such equipment, shall be the installed cost of such equipment to such user, less depreciation at the rate of 5% per year (except as provided in paragraph (b)); the maximum price applicable to the resale of any such equipment by the manufacturer on a reconditioned and guaranteed basis to a new user designated by the War Production Board shall be the total cost of the equipment to the manufacturer, including the cost of inspection, dismantling, and shipment to the manufacturer's plant, estimated if necessary; plus the cost of reconditioning the equipment, of shipment to the purchaser, and of installation, estimated if necessary; plus the amount of any other out-of-pocket expenses incurred in connection with such sale, estimated if necessary; plus a reasonable charge for engineering and a reasonable profit, not upon the cost to the manufacturer, but in the light of the manufacturer's risk and responsibility; *Provided*, That the amount of such profit,

together with a description of the transaction, has been submitted to the Office of Price Administration, Washington, D. C., for its review and that the Office of Price Administration has approved or failed to disapprove the amount of such profit within thirty days after receipt of the information.

(ii) If, upon a sale of industrial or commercial air-conditioning or refrigerating equipment by a state government, or any agency or political subdivision thereof, the War Production Board certifies to the Office of Price Administration prior to such sale that upon the basis of a competent engineering appraisal the 5% rate of depreciation, referred to in paragraph (a), does not fairly reflect the actual depreciation of such equipment to the date of such sale, the rate of depreciation fixed by, and set forth in the certification of, the War Production Board as fairly reflecting such actual depreciation shall be used in the determination of the maximum price of such sale instead of the 5% rate of depreciation.

[Subparagraph (41) added by Am. 55, 7 F.R. 9736, effective 11-27-42 and amended by Am. 68, 8 F.R. 1382, effective 2-5-43]

(42) *Essick Manufacturing Company.* Notwithstanding the provisions of §§ 1390.5 and 1390.6, the maximum price applicable to the sale of any portable road roller or auto prime centrifugal pump listed below, manufactured and sold by Essick Manufacturing Company, Los Angeles, California, shall be the net price shown opposite the particular model on the following schedule:

Essick "Economy" Portable Road Roller	\$735.00
Essick "Road Hog" Portable Road Roller	1,320.00
Essick 3M Auto Prime Centrifugal Pump	72.00
Essick 7M Auto Prime Gentrifugal Pump	130.00
Essick 15M Auto Prime Centrifugal Pump	203.00
Essick 30M Auto Prime Centrifugal Pump	372.00

[Subparagraph (42) added by Am. 59, 7 F.R. 9974, effective 12-4-42]

(43) *Loom picker sticks and other textile machinery parts made of hickory—*(i) *Increase in maximum prices.* Notwithstanding any other provisions of this regulation, the maximum price calculated under this regulation apart from this subparagraph for any loom picker sticks and any other weaving and spinning hardware parts made of hickory (such as: jack sticks, sweep sticks, binders, crank or pitman arms, skewers, parallel blocks, dobby sheaves, etc.) shall be increased by the amount provided in whichever of the following subdivisions (a) to (c) is applicable:

(a) *Manufacturers who buy picker stick blanks.* The amount to be added by any manufacturer who buys the hickory picker stick blanks from which he manufactures the parts involved shall be the combined dollar amount of the increases in the maximum price of the picker stick blanks going into the production of the picker sticks and other textile machinery parts made of hickory being priced, which became effective April 1, 1943 and April 8, 1943. Those increases shall be

the amounts by which Order No. 16 under § 1499.18 (c), as amended, of the General Maximum Price Regulation and Amendment No. 151 to Supplementary Regulation No. 14* to the General Maximum Price Regulation increased the maximum price of hickory picker stick blanks sold or delivered by the manufacturer's supplier to the manufacturer, including any increase due to delivery charges that the supplier is permitted to make.

(b) *Manufacturers who make their own picker stick blanks.* The amount to be added by any manufacturer who makes the hickory picker stick blanks from which he manufactures the parts involved shall be an amount in line with the amounts to be added under (a) by comparable manufacturers who buy their hickory picker stick blanks, specifically authorized in writing by the Office of Price Administration. The manufacturer shall write to the Office of Price Administration, Washington, D. C., for such authorization.

(c) *Sellers other than manufacturers.* The amount to be added by any seller other than a manufacturer shall be the dollar amount by which the maximum price of the seller's supplier has been increased by this subparagraph on sales and deliveries to the seller. If the seller's supplier has notified the seller of the amount of such increase in accordance with subdivision (ii) and if the seller has no reason to doubt the validity of such notification, the amount of which the seller has been so notified shall be deemed to be the proper amount to be added under this subdivision (c).

(ii) *Notification by sellers who sell to purchasers for resale.* Every seller of loom picker sticks and other textile machinery parts made of hickory which are covered by this subparagraph, who sells such items to purchasers who buy for the purpose of resale, shall notify every such purchaser in writing of the amount by which the seller's maximum price to the purchaser has been increased on each such item calculated according to the appropriate provision in subdivision (i).

[Subparagraph (43) added by Am. 82, 8 F.R. 5306, effective 4-20-43]

(44) *Bobbins and spools.* Notwithstanding any other provisions of this regulation, the maximum manufacturers' prices for bobbins and spools calculated under this regulation apart from this subparagraph shall be increased by 6%.

[Subparagraph (44) added by Am. 105, 8 F.R. 15672, effective 11-22-43]

(45) *Machines and parts sold in accordance with Materials Redistribution Program No. 2 of the Petroleum Administrator for War.* Notwithstanding any other provisions of this regulation, the maximum price, f. o. b. the present location, of any new machine or part which is sold in accordance with Materials Redistribution Program No. 2 of the Petroleum Administrator for War, issued July 9, 1943, shall be:

The maximum price at which the seller could purchase the same quantity of the

machines or parts being sold from his present supplier, f. o. b. his supplier's place of business, plus the cost of transportation (including trucking or cartage from railroad siding) from the supplier's place of business to the present location of the machine or part being sold. This does not include any storage, handling or other charges paid or incurred after the machine or part is received at the seller's plant or warehouse. For the purposes of this subparagraph, if the seller is notified by his supplier of the maximum price and if the seller has no reason to doubt the validity of such notification, the price of which the seller has been notified shall be deemed to be the maximum price.

[Subparagraph (45) added by Am. 106, 8 F.R. 16132, effective 12-1-43]

§ 1390.25a *Adjustments—(a) Application by a seller—*(1) *Who may receive an adjustment.* The maximum price established by this regulation for a machine or part may be adjusted in the case of an essential supplier of an essential machine or part. An "essential machine or part" is one which contributes to the effective prosecution of the war. An "essential supplier" is one whose output or supply of a machine or part cannot be reasonably expected to be replaced at prices lower than the proposed adjusted maximum price. In addition, any person who has entered into, or proposes to enter into, a war contract (as defined in subparagraph (5)), or a subcontract thereunder, is an essential supplier of an essential machine or part.

(2) *When adjustment may be granted—*(i) *In general.* The Office of Price Administration, any regional office, or such other offices as may be authorized by order issued by the appropriate regional office, may adjust the maximum price in the case of an essential supplier of an essential machine or part upon the basis of information submitted by the supplier or of other information. It may make that adjustment whenever it finds that the maximum price of a machine or part is at such a level that (taking into account the cost thereof, the profits position of the supplier and the nature of his business) production or supply of the machine or part is impeded or threatened and that the adjustment would not cause an increase in the cost of living.

(ii) *Factors which may be considered.*

(a) The following factors are relevant to the consideration of whether production or supply of the machine or part is impeded or threatened:

(1) Whether, and by what amount, the maximum price is below or above (i) the total unit costs less selling and administrative expenses properly allocable to the internal management of the business in the case of a manufacturer and (ii) the current price being charged the seller in the case of any other seller.

(2) Whether, and by what amount, the maximum price is above total unit costs.

(3) Whether, and by what amount, the supplier's current over-all profits before income and excess profits taxes are greater or less than his average overall profits during the normal base period, increased by 7% of the additional capital investment contributed entirely by

*Superseded by Sec. 6.13 of Revised Supplementary Regulation No. 14, 8 F.R. 9787, effective 7-15-43.

the supplier, or its stockholders, since the normal base period.

(4) Whether the proposed price is higher than the price prevailing in the industry.

(5) Whether the supplier's sales of the machine or part represent only a very small part of his total sales.

(6) Whether the supplier previously sold the machine or part at a price which was below its total unit costs.

(b) The following factors are relevant to the consideration of whether the adjustment would cause an increase in the cost of living:

(1) Whether the machine or part or a commodity in the production of which it is used is of a type sold to civilian consumers other than industrial consumers.

(2) If such is the case, whether the increase in price allowed by the adjustment would be absorbed prior to sale to a non-industrial consumer.

(3) Whether, if the applicant did not produce or supply the machine or part, his output or supply would be replaced by the same or a substitute commodity only at prices equal to or higher than the proposed adjusted maximum price.

(3) *How the seller proceeds in applying for an adjustment*—(i) *In general*. An application for adjustment under this paragraph (a) shall be filed in accordance with Revised Procedural Regulation No. 1 and shall be made on a copy of Form OPA 694-178a, set out in paragraph (a) of Appendix E, incorporated as § 1390.36 of this regulation. Copies of this form may be obtained from any district, state or regional office of the Office of Price Administration. If the seller's total sales of all commodities in the calendar year 1942, or in the fiscal year ending in 1942, exceeded \$500,000, the application shall be filed with the Office of Price Administration in Washington, D. C. If the seller's total sales of all commodities during that period did not exceed \$500,000, the application shall be filed with the regional office of the Office of Price Administration located in the same region in which the seller's business is located.

(ii) *Application based on proposed wage or salary increase to be authorized by the National War Labor Board*. A seller who believes that the conditions for an adjustment set forth in this paragraph (a), would exist if the National War Labor Board should grant a pending application for wage or salary increase may file an application for adjustment under this paragraph. Applications for adjustment of maximum prices based on wage or salary increases requiring the approval of the National War Labor Board must also comply with Supplementary Order No. 28, which requires, among other things, that an application for adjustment in such case be filed within 15 days after an application for a wage or salary adjustment has been filed with the National War Labor Board, or, in a disputed wage proceeding, within 15 days after the employer receives notification that the National War Labor Board has taken jurisdiction of the dispute.

(4) *Prices for deliveries made pending disposition of the application*. A seller who has filed an application under this paragraph (a) may contract

or agree that deliveries made during the pendency of the application shall be at a specific price which is higher than the existing maximum price which the seller wants to have adjusted. However, no payment in excess of that existing maximum price may be received until final disposition is made of the application. Where the application is disposed of by an order issued under this section, the price received for deliveries made subsequent to the filing of the application may not exceed the maximum price as determined by the Office of Price Administration. Where the application is disposed of by an amendment of general applicability, payment in excess of the maximum price in effect at the time of delivery may be made for deliveries made pending disposition of the application, only as expressly authorized by order of the Price Administrator.

[Above paragraph amended by Am. 116, effective 5-8-44]

A seller who wishes to enter into such an arrangement must specifically state to the buyer the following:

(i) The maximum price for the machine or part;

(ii) The fact that an appropriate application for an adjustment of that maximum price has been filed with the Office of Price Administration; and

(iii) The fact that the specific price quoted by the seller is subject to the approval of the Office of Price Administration.

(5) *Definitions*—(i) *Normal base period*. The term "normal base period" means the period 1936-1939. If the seller shall demonstrate to the satisfaction of the Office of Price Administration either (a) that his entire industry was operating during the greater part of such period at an unusually depressed level or (b) that because of unusual conditions prevailing during that period, the seller was operating during that period at an unusually depressed level in comparison to other sellers in the industry and in addition that some other period prior to January 1, 1941, represents a proper "normal base period", such other period may be considered. The mere fact that the rate of production or supply has increased since 1936-1939 will not be deemed evidence that the seller was operating at an "unusually depressed level" during that period. If the seller was not in business prior to January 1, 1941, he shall state that fact in his application.

(ii) *Over-all profits*. The term "over-all profits" means net profit resulting from the operation of all divisions of the seller, before the creation of any reserves, except ordinary reserves for depreciation and bad debts, and before income and excess profit taxes. In the case of a subsidiary wholly owned by a parent corporation, the term "over-all profits" means the consolidated net profit before the creation of any reserves, except ordinary reserves for depreciation and bad debts, and before income and excess profit taxes.

(iii) *Subcontract*. The term "subcontract" means any purchase, order or

agreement to perform all or any part of the work, or to make or furnish any commodity, required for the performance of another contract or subcontract.

(iv) *Total unit costs*. (a) In the case of a manufacturer, the term "total unit costs" means the direct unit cost of labor, materials, and subcontracted services, plus a proportion of factory overhead, administrative and other expenses, based on actual operating experience, properly allocable to the production of the machine or part, but does not include provisions for income or excess profits taxes. In evaluating total unit costs, the Office of Price Administration will determine whether the allocation of factory overhead, administrative and other expenses is based on a representative period of continuous, normal production.

(b) In the case of a seller, other than a manufacturer, the term "total unit costs" means the current price the seller is paying for the machine or part plus the handling and administrative expense, normally applicable to the handling of the commodity, properly allocable to the seller's total cost of doing business, but does not include provisions for income or excess profits taxes. In evaluating total unit costs, the Office of Price Administration will determine whether the allocation of administrative and other expenses is based on a representative period of continuous, normal production.

(v) *War contract*. The term "war contract" means any contract with the United States, or any agency thereof, or with the government, or any agency thereof, of any country whose defense the President deems vital to the defense of the United States, under the terms of the Lend-Lease Act, for the sale of a machine or part purchased (a) for the ultimate use of the armed forces of the United States or for lend-lease purposes, or (b) by any government (or agency thereof) of any country whose defense the President deems vital to the defense of the United States under the terms of the Lend-Lease Act, or (c) for use in the production or manufacture of any commodity described in (a) or (b).

[Paragraph (a) amended by Am. 92, 8 F.R. 8544, effective 6-25-43]

(b) *Application by a machinery service supplier*. Paragraph (a) applies, insofar as practicable, to adjustments of the maximum prices of machinery services and to application for such adjustments. However, the procedure to be followed in applying for an adjustment differs in the following respects:

(1) The application for adjustment shall be made on Form OPA694-178B, set out in paragraph (b) of Appendix E. Copies of this form may be obtained from any district, state or regional office of the Office of Price Administration.

(2) If the supplier's total sales of machinery services for the calendar year 1942, or for the fiscal year ending in 1942, exceeded \$75,000, the application shall be filed in Washington, D. C. If the supplier's total sales of machinery services for that period did not exceed \$75,000 the application shall be filed with the nearest regional office of the Office of Price Administration.

(c) *Application by a seller or a machinery service supplier based upon an*

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appropriate decrease of other prices—(1) Who may receive an adjustment under this paragraph. Adjustments under this paragraph will be granted only in the case of an essential supplier of an essential machine or part or an essential supplier of an essential machinery service. The meaning of these terms is explained in paragraph (a) (1) of this section.

(2) *When adjustment may be granted.* The Office of Price Administration, any regional office, or such other offices as may be authorized by order issued by the appropriate regional office, may make an adjustment of the maximum price in any case in which:

(i) The seller or supplier agrees to make and (simultaneously with any increase in the maximum price that may be authorized under this paragraph (c)) makes a reduction in the selling price of products or services which will equal or exceed the total dollar amount of the adjustment granted under this paragraph; and

(ii) One of the following conditions is met:

(a) The increases and decreases in price are made for the purpose of restoring normal price relationships;

(b) The increases and decreases in price are effected by changes in the prices charged different classes of purchasers for the same commodity or service; or

(c) The increases and decreases in price are made for the purpose of changing the seller's or supplier's price list-discount structure.

An adjustment will not be granted under this paragraph where the increases in price are to be made to civilian purchasers and the decreases in price are to be made to government purchasers.

[Subparagraph (2) amended by Am. 116, effective 5-8-44]

(3) *What an application under this paragraph must show.* An application for price adjustment under this paragraph (c) shall contain information indicating that the applicant is an essential supplier of an essential machine or part or an essential supplier of an essential machinery service and that if the proposed adjustment is granted, the gross dollar amount of sales of the machines or parts or machinery services affected by the adjustment will not be greater than it would have been in the absence of the adjustment. In any case where such an adjustment is granted, the Office of Price Administration will require appropriate reports relating to the commodities or services affected.

(4) *How the seller or supplier proceeds in applying for an adjustment.* An application for adjustment under this paragraph (c) shall be filed in accordance with Revised Procedural Regulation No. 1. If the seller's total sales for the calendar year 1942, or for the fiscal year ending in 1942, exceeded \$500,000, the application shall be filed with the Office of Price Administration in Washington, D. C. If the seller's total sales

during that period did not exceed \$500,000, the application shall be filed with the regional office of the Office of Price Administration located in the same region in which the seller's business is located. If the supplier's total sales of machinery services for the calendar year 1942, or for the fiscal year ending in 1942, exceeded \$75,000, the application shall be filed with the Office of Price Administration in Washington, D. C. If the supplier's total sales of machinery services during that period did not exceed \$75,000, the application shall be filed with the regional office of the Office of Price Administration located in the same region in which the supplier's business is located.

[Paragraph (c) amended by Am. 92, 8 F.R. 8544, effective 6-25-43]

(d) *Application by a seller or a machinery service supplier under a combination of both paragraphs (a) and (c) or paragraphs (b) and (c).* A seller or a machinery service supplier who desires to apply for an adjustment under paragraph (c) may, at the time he applies under that paragraph, also apply under paragraphs (a) or (b), if the facts of his case entitle him to do so. In such case, the office considering his application will give the adjustment available under paragraphs (a) or (b) before applying paragraph (c).

[Paragraph (d) amended by Am. 92]

(e) *No application for adjustment filed after April 9, 1943, under Procedural Regulation No. 6* * *with respect to commodities and services covered by this regulation will be granted.*

[Paragraph (e) amended by Am. 80, 8 F.R. 4788, effective 4-10-43]

(f) *Amendment of general applicability.* Where the Price Administrator deems it appropriate, he may grant the relief which he deems necessary by issuing an amendment of general applicability.

[Former paragraph (f) revoked by Am. 92, 8 F.R. 8544, effective 6-25-43; new paragraph (f) added by Am. 116, effective 5-8-44]
[\$1390.25a added by Am. 78, 8 F.R. 4516, effective 4-10-43]

§ 1390.26 *Records and additional or substituted reports—(a) Records.* Persons subject to this regulation shall keep available for inspection by representatives of the Office of Price Administration records of the following:

(1) *By the manufacturer.* Records of (i) each sale, lease or delivery of a machine or part after the effective date of this regulation, showing the name of the person buying, leasing or receiving such machine or part, the date of the transaction, an identification of the machine or part providing a reference to a price list or to production records, and the net price or rental; (ii) price-determining methods, labor rates, material prices, overhead rates and machine hour rates in effect on October 1, 1941, and (iii) detailed cost-estimate sheets and other data showing the calculations of prices and rentals on transactions covered by this regulation, for which there was no list price or rental in effect on October 1,

* 7 F.R. 5087, 5664; 8 F.R. 6173, 6174, 12024.

1941, or for which no list price or rental is hereafter established.

(2) *By the machinery service supplier.* Records of all machinery services performed after the effective date of this regulation, showing the name of the person for whom such services were performed, the date of the transaction, identification of the services providing a reference to a price list or to production records, and the net charge therefor, and, in addition, records showing as precisely as possible the basis upon which maximum charges for machinery services have been and are determined.

(3) *By a lessor other than the manufacturer.* Records of each lease or delivery of a machine or part after the effective date of this regulation, showing the name of the person leasing or receiving such machine or part, the date of the transaction, the net rental and, in addition, records showing as precisely as possible the basis upon which maximum rentals for machines and parts have been and are determined.

(4) *By a seller other than the manufacturer.* Records of the kind such seller has customarily kept, relating to the prices of machines and parts sold after the effective date of this regulation, and, in addition, records showing as precisely as possible the basis upon which maximum prices for machines and parts have been and are determined.

(b) *Additional or substituted records and reports.* Every person subject to this regulation shall keep such other records and submit such other reports, including periodic financial statements, as the Office of Price Administration may from time to time require in writing, either in addition to or in substitution for records and reports herein required.

(c) *Reports on products brought under this regulation.* Notwithstanding any other provisions of this regulation, whenever the sale or rental of any products or services are brought within the scope of this regulation, after the effective date thereof by amendment or otherwise, the reports required by this regulation, in § 1390.5 (b) shall be filed within thirty days after the effective date of such amendment, and the reports provided for in § 1390.10 (b) may be filed within thirty days after such effective date.

[Paragraph (c) added by Am. 54, 7 F.R. 9729, effective 11-25-42]

§ 1390.26a *Reports of additions to stock and offering and selling prices of certain second-hand machines and parts—(a) Who shall file.* Reports of additions to stock and offering and selling prices of the second-hand machines and parts listed in the form set forth in Appendix F must be filed by every person engaged in the business of selling second-hand machines or parts, either on his own behalf or on behalf of another. For example, these reports must be filed by agents, auctioneers, brokers and dealers, and machinery manufacturers who sell second-hand machines or parts.

(b) *Method of filing.* These reports shall be filed on Form OPA-2:10:P1 Revised—Form WPB-2574—(Used Equipment and Machinery Inventory and Sales Report Form) which is set forth in Appendix F of this regulation. Copies

of this form may be obtained from any War Production Board District Office. Within five days after the acquisition of such a second-hand machine or part by a person required to report under this section, that person shall file three copies of the information required by items 1 to 16 of the form with the District Office of the War Production Board which is located in the district in which his place of business is located. Within five days after the sale of a second-hand machine or part listed in Appendix F by a person required to report under this section, that person shall file a copy of all the information required by the form with the District Office of the War Production Board which is located in the district in which the seller's place of business is located.

(c) *Records of information filed.* Every person required to file reports under this section shall keep a complete and accurate record of the information contained in these reports for so long as the Emergency Price Control Act of 1942, as amended, shall remain in effect.

§ 1390.26b *Notification of auction sales.* Every auctioneer shall file a written notice of every public or private auction sale of second-hand machines or parts at least one week before the sale. This notice shall be sent to the District Office of the Office of Price Administration which is located in the district in which the auction is to be held. The notice shall include the place, date and time of the sale, the classes and types of machines and parts that are to be sold, and a copy of any announcement of the sale.

[§§ 1390.26a and 1390.26b added by Am. 114, 9 F.R. 4020, effective 4-15-44]

§ 1390.27 *Sales slips and receipts.* Any person subject to this regulation, who has regularly furnished customers with invoices, sales slips, receipts or similar documents shall continue to do so. Every person subject to this regulation shall, in any case, upon request of the customer, give such customer a signed receipt showing the date of the transaction, an identification of the machine or part sold or leased or of the machinery service performed, and the price, rental or charge therefor.

§ 1390.28 *Transfer of business or stock in trade.* If the business, assets or stock in trade of any business are sold or otherwise transferred after October 1, 1941, and the transferee carries on the business, or continues to deal in the same type of machines or parts or to perform the same type of machinery services, in the same competitive area and in an establishment separate from any establishment which he may previously have owned or operated, the transferee shall be subject to the same maximum prices as those to which his transferor would have been subject under this regulation if no such transfer had taken place, and his obligation to keep records sufficient to verify such prices shall be the same. The transferor in such cases shall either preserve and make available, or turn over, to the transferee all records of transactions prior to the transfer which are necessary to enable the transferee to comply with the provisions of this regulation.

§ 1390.29 *Enforcement.* (a) Persons violating any provisions of this regulation are subject to the criminal penalties, civil enforcement actions, and suits for treble damages or suspension of licenses provided for by the Emergency Price Control Act of 1942.

(b) Persons who have evidence of any violation of this regulation or any price schedule, regulation, or order issued by the Office of Price Administration or of any acts or practices which constitute such a violation are urged to communicate with the nearest District, State or Regional Office of the Office of Price Administration or its principal office in Washington, D. C.

§ 1390.29a *Licensing—(a) License granted.* The licensing provisions of Licensing Order No. 1,¹ licensing all persons who make sales under price control, are applicable to all sellers subject to this regulation. A seller's license may be suspended for violations of the license or of one or more applicable price schedules or regulations. A person whose license is suspended may not, during the period of suspension, make any sale for which his license has been suspended.

(b) *Registration of certain sellers of second-hand machines or parts.* Every person engaged in the business of selling second-hand machines or parts, either on his own behalf or on behalf of another, must register with the Office of Price Administration in accordance with the provisions of Licensing Order No. 3.²

[§ 1390.29a added by Am. 37, 7 F.R. 9001, effective 11-9-42 and amended by Supplementary Order 72, 8 F.R. 13244, effective 10-1-43; and Am. 114, 9 F.R. 4020, effective 4-15-44]

§ 1390.30 *Definitions.* (a) When used in this regulation, the term:

(1) "Person" includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative of any of the foregoing, and includes the United States or any agency thereof, or any other government, or any of its political subdivisions, or any agency of any of the foregoing.

(2) "Manufacturer" means any person engaged in one or more operations in the fabrication, processing or assembly of a machine or part, and includes subcontractors as well as prime contractors.

(3) "Machinery service supplier" means any person engaged in the performance of a machinery service, and includes subcontractors as well as prime contractors.

(4) "Price" means any consideration in connection with a sale, lease, exchange or other transfer of a machine or part or of a machinery service, and includes prices, rentals, rates, and charges.

(5) "Parts and subassemblies" includes all metallic and nonmetallic component parts, adjuncts, and accessories of products set forth in Appendix A, or in Appendix B, which have been machined or fabricated. The term does not include castings as sold by the foundry, mill steel, raw, unfinished, or scrap materials, or any other materials in such

form as to permit their use in the manufacture of products other than those set forth in Appendix A or Appendix B.

(6) "War procurement agency" includes the War Department, the Department of the Navy, the United States Maritime Commission, and the Lend-Lease Section in the Procurement Division of the Treasury Department, or any agency of any of the foregoing.

(b) Unless the context otherwise requires, the definitions set forth in section 302 of the Emergency Price Control Act of 1942 shall apply to other terms used in this regulation.

§ 1390.31 *Effective date.* This regulation (§§ 1390.1 to 1390.34, inclusive), shall become effective July 22, 1942, except that this regulation shall not apply to sales or deliveries of electric storage batteries until November 7, 1942. [MPR 136, as amended, originally issued June 30, 1942.]

[§ 1390.31 amended by Am. 1, 7 F.R. 5865, effective 7-22-42; Am. 13, 7 F.R. 6937, effective 9-1-42; Am. 28, 7 F.R. 7918, effective 10-1-42; and correction to Am. 31, 7 F.R. 8433]

§ 1390.31a *Effective dates of amendments.* [Effective dates of amendments are shown in notes following the parts affected.]

§ 1390.32 *Appendix A: Machines and parts to which the October 1, 1941, date is applicable—(a) Prime movers, etc.*

Diesel engines, except aircraft diesel engines. Gasoline and kerosene engines for marine, tractor, railway, and stationary use (not including portable outboard motors). Hydraulic turbines and hydraulic turbine governors.

Steam engines and steam turbines.

[Paragraph (a) amended by Am. 25, 7 F.R. 7912, effective 10-9-42, and Am. 69, 8 F.R. 2270, effective 2-25-43]

(b) *Industrial and marine power apparatus.*

Boilers, industrial and marine.

Oil burners, industrial and marine (burning not less than No. 6 oil).

Power operated industrial and marine soot blowers and tube cleaners.

Stokers, industrial and marine (1,200 lbs. per hour or more).

[Paragraph (b) amended by Am. 74, 8 F.R. 4331, effective 4-8-43]

(c) *Processing machinery and equipment.*

Cement-making machinery.

Ceramics machinery.

Chemical process machinery.

Concrete products machinery and equipment.

Cotton-ginning machinery.

Die-casting machinery. Electroplating and hot-dip metal coating equipment, including preparatory and finishing equipment used in connection with metal coating processes.

Floor surfacing and floor maintenance machinery (industrial).

Food and beverage machinery, including baking, canning, bottling, confectionery, brewing, grain-milling, meat-packing, edible oil, sugar and dairy machinery and equipment (except dairy farm equipment).

Foundry machinery (including ladles not over 40 ton capacity).

Glass-making machinery.

Hat-making machinery.

Laundry, dry-cleaning, and clothes pressing machinery (except domestic).

Leather-working machinery.

¹ 8 F.R. 13240.

² 8 F.R. 13241; 9 F.R. 3852.

Packaging, wrapping, filling, and labeling machinery.

Paint-making machinery.

Petroleum-refining machinery.

Pharmaceutical machinery.

Plastics molding and fabricating machinery.

Printing machinery.

Pulp, paper, and paper products machinery.

Rod and wire-working machinery.

Rolling mill machinery and equipment.

Rubber and allied products machinery.

Rubber tire and tube machinery and equipment, including tire recapping and retreading molds and accessory parts (full circle and sectional molds, matrices, etc.), tire buffers, tire spreaders and spot vulcanizers for tubes.

Sewing machines, industrial.

Shoe manufacturing and repairing machinery.

Spring-winding and forming machinery.

Textile preparatory and finishing machinery and equipment (including accessories designed exclusively for use with such machinery).

Tobacco-working machinery.

Woodworking machinery.

[Paragraph (c) amended by Am. 25, 7 F.R. 7912, effective 10-9-42; Am. 54, 7 F.R. 9729, effective 11-25-42; Am. 74, 8 F.R. 4331, effective 4-8-43; Am. 94, 8 F.R. 9139, effective 7-8-43; Am. 101, 8 F.R. 14617, effective 11-1-43; Am. 107, 9 F.R. 1523, effective 2-11-44 and Am. 116, effective 5-8-44]

(d) Construction and mining machinery, etc.

Asphalt mixing plant.

Coal preparation equipment.

Concrete mixing, placing, and finishing equipment.

Cranes (overhead, crawler, and locomotive), hoists and derricks.

Crawler and non-agricultural tractors.

Core drilling machinery.

Excavating and earth-moving machinery (including power shovels, ditchers, draglines, and power scrapers).

Dredging machinery.

Heaters, stone, sand, or bitumen.

Masonry saws.

Mining machinery (including mine cars and trucks).

Oil well equipment.

Ore-crushing and concentrating machinery.

Pile drivers.

Road building and maintenance machinery (including graders, pavers, rollers, etc.).

Rock crushers.

Scaffolds.

Snow plows.

Spreaders.

Well-drilling equipment.

[Paragraph (d) amended by Am. 25, 7 F.R. 7912, effective 10-9-42; Am. 101, 8 F.R. 14617, effective 11-1-43 and Am. 107, 9 F.R. 1523, effective 2-11-44]

(e) Electrical equipment.

Arresters, lightning.

Batteries, storage, including automotive.

Capacitors, except fixed capacitors of the types and sizes used for military radio and radar equipment.

Carbon, graphite and metal graphite products for electrical uses.

Circuit breakers.

Condensers, synchronous.

Conduit, metallic, at wholesale level only.

Conduit fittings.

Control equipment, industrial, except control devices for domestic installations.

Converters, synchronous.

Distribution boards.

Ducts, metallic and non-metallic, except wooden and asbestos cement conduit.

Electrodes and welding rods for electric or gas welding.

Fuses, for the protection of electrical equipment.

Generators, except automotive.

Heating units and devices, electrical, industrial.

Instruments, electrically or magnetically actuated, for measuring, testing, recording, or indicating electrical or non-electrical quantities, except automotive.

Lighting equipment, electrical:

Airports.

Airways.

Commercial.

Floodlighting.

Industrial.

Marine.

Seadromes.

Street and highway.

Line material, trolley.

Magnets.

Magnets, lifting, industrial.

Metals and alloys, special electrical (except steel with less than 6% alloy content) in any fabricated form used for electrical resistance, magnetic or glass sealing purposes, including special contact alloys and special coated iron wire.

Motors.

Motor generator sets.

Outlets, metallic.

Panelboards.

Rectifiers, power, industrial.

Regulators, feeder voltage.

Searchlights, except military searchlights.

Signalling apparatus, except railway signals.

Substations, unit.

Switchboxes, metallic.

Switches, knife and enclosed.

Switchgear and switchgear accessories.

Telephone apparatus, including sound powered telephone and non-electronic inter-communicating telephone equipment.

Transformers including specialty transformers, except electronic transformers.

Turbine generator sets.

Welding apparatus and supplies, electrical.

Wiring devices.

[Paragraph (e) amended by Am. 1, 7 F.R. 5665, effective 7-22-42; Am. 25, 7 F.R. 7912, effective 10-9-42; Am. 66, 8 F.R. 534, effective 1-18-43; Am. 67, 8 F.R. 1058, effective 1-27-43; and Am. 101, 8 F.R. 14617, effective 11-1-43]

(f) Railroad equipment (for steam and electric railroads and surface, elevated, and underground railways).

Freight cars (including all types and sizes of flanged wheel mining and industrial cars).

Passenger cars.

Locomotives and tenders (including mining and industrial).

Car and locomotive parts and specialties, including:

Axes.

Bearings, truck side.

Boilers, fireboxes, front ends, and cabs, fittings, fixtures, devices or appliances mounted thereon.

Brakes and brake gear.

Coupler devices or attachments.

Devices and appliances mounted on locomotives for treatment, distribution, and control of water, fuel, steam, sand, and electricity.

Doors and fixtures (except those subject to Revised Price Schedule No. 40—Builders' Hardware and Insect Screen Cloth¹¹).

Draft gears, buffers, and attachments.

Driving, foundation, and running gear.

Heating, lighting, ventilating, and air conditioning equipment.

Journal boxes, assembled.

Lubricating devices.

Miscellaneous fittings, fixtures, specialties, devices or appliances designed specifically for use on cars or locomotives (not including artillery or other exclusively military or naval equipment designed for mounting on cars or locomotives).

Safety appliances and warning devices.

¹¹ 7 F.R. 1280, 2132, 6383, 8948; 8 F.R. 7257; 9 F.R. 1319.

Car and locomotive parts, etc.—Continued.

Sides, roofs, ends, running boards, brake steps.

Spring rigging, snubbers, shock absorbers.

Steel tires.

Train control apparatus.

Trucks, complete.

Underframes.

Wheels, iron and steel.

Machines, tools, devices, and appliances designed specifically for the installation, operation, maintenance, and protection of tracks, yards, signals, rolling stock, and motive power.

Signal equipment, including highway crossing signals.

Stationary plants for handling fuel, sand, water, and cinders.

[Paragraph (f) amended by Am. 74, 8 F.R. 4331, effective 4-8-43 and Am. 116, effective 5-8-44]

(g) Auxiliary equipment.

Air-conditioning equipment (25 tons' capacity or over).

Dust collecting equipment, industrial.

Heat exchange equipment, industrial.

Industrial furnaces and ovens (not including space heating furnaces and stoves, blast furnaces, open hearth furnaces, Bessemer converters, soaking pits, coke ovens, and industrial furnaces used solely for the manufacture of pig iron or steel).

Lubricating systems and devices, industrial.

Material handling equipment (including skid platforms; cars and trucks except those equipped with flanged wheels, racks except shelving and stationary storage racks, etc.).

Metal marking and numbering machines.

Refrigerating equipment (25 h. p. or over).

Water softening and purifying equipment, industrial.

[Paragraph (g) amended by Am. 54, 7 F.R. 9729, effective 11-25-42; Am. 74, 8 F.R. 4331, effective 4-8-43; and Am. 77, 8 F.R. 4515, effective 4-12-43]

(h) Miscellaneous.

Elevators and conveyors.

Fans and blowers (including domestic hot air furnace fans), except pedestal, portable, and ceiling household and office fans.

Gas welding and cutting equipment, welding rods, welding wire, electrodes, and supplies.

Gyroscopes.

Industrial power-operating devices for applying protective coatings or for the application of metals by spraying methods.

Mechanical instruments for measuring, testing, recording, or indicating, including aircraft, marine, scientific, laboratory, and precision instruments (not including special gages manufactured pursuant to the customer's drawings, carpenters' tools, or surgical, optical, and dental instruments).

Portable heating, melting, burning, and thawing equipment for industrial and transportation purposes (not including mechanic's fire pots and blow torches).

Portable power driven tools, which in normal use are held or guided by hand and not customarily attached to a permanent support.

Power driven tools, primarily designed for use on a bench and for the working of wood, plastics, etc. (except bench tools especially designed for metal working which are subject to Revised Price Schedule No. 67).

Pumps and compressors, except automotive, hand operated, and farm pumps.

Surveying and drafting instruments, and engineering reproduction equipment (not including school, art and office supplies).

Valves, automatic.

Weighing scales, industrial and platform.

[Paragraph (h) amended by Am. 1, 7 F.R. 5665, effective 7-22-42; Am. 3, 7 F.R. 6425, effective 8-19-42; Am. 54, 7 F.R. 9729, effective 11-25-42; Am. 65, 8 F.R. 369, effective 1-13-43; Am. 73, 8 F.R. 4331, effective

4-8-43; and Am. 101, 8 F.R. 14617, effective 11-1-43]

(i) *Miscellaneous parts and subassemblies, etc.*

Antifriction bearings, except automotive. Bi-metallic thermal strips, fabricated. Chains, sprocket, and roller and silent, except automotive.

Galvanometer and pyrometer movements. Industrial clockwork systems used in connection with mechanical instruments.

Industrial power transmission equipment belt tighteners and shifters, clutches, couplings and collars, hangers and brackets, motor bases, pillow blocks and bearing housings, pulleys and sheaves, universal joints, variable-speed drives.

Springs for mechanical instruments set forth in paragraph (h) hereof.

[Paragraph (i) amended by Am. 1, 7 F.R. 5665, effective 7-22-42; Am. 25, 7 F.R. 7912, effective 10-9-42; Am. 54, 7 F.R. 9729, effective 11-25-42; and Am. 91, 8 F.R. 8275, effective 6-21-43]

(j) *Parts and subassemblies of machine tools or of any of the items set forth in paragraphs (a) to (i), inclusive, of this Appendix A when manufactured by the manufacturer of the complete item.* (This paragraph applies to any such part or subassembly, even when it is of a type listed in paragraph (c) of § 1390.33, and even though it may in some cases be incorporated in items other than those set forth in paragraphs (a) through (i) inclusive of this Appendix A).

[Paragraph (j) amended by Am. 54, 7 F.R. 9729, effective 11-25-42 and Am. 106, 8 F.R. 16132, effective 12-1-43]

(k) *Machine tools (except when subject to Revised Price Schedule No. 1¹² or Revised Price Schedule No. 67.¹³)*

[Paragraph (k) added by Am. 1, 7 F.R. 5665, effective 7-22-42]

(l) *Machines and parts for which October 15, 1941, is the base date.* Gears, pinions, sprockets, and speed reducers, including gear motors and other motorized speed reducers, and variable speed gear drives, but not including the following: (1) automotive or tractor transmissions, transfer cases, power take-offs, differentials, or axle assemblies; (2) any items designed for use in private or commercial motor vehicles or any items specially designed for use in vehicles, aircraft, or equipment used primarily for

¹² Superseded by Maximum Price Regulation No. 1 (8 F.R. 10116, 13104). Establishes maximum prices for second-hand machine tools and extras. Revised Price Schedule No. 67 (7 F.R. 1337, 2000, 2105, 2472, 2473, 2680, 2996, 3445, 3820, 4176, 5513, 5987, 7239, 7834, 8928, 8948, 9039, 9052, 9053, 11074) establishes maximum prices for new machine tools and standard extras. Both of these Regulations remain in effect and are not superseded by this Maximum Price Regulation No. 136 as amended. Chucks, mandrels, collets and machine tool attachments (see Appendix B, § 1390.33) sold by the machine tool manufacturer as standard extras are subject to Revised Price Schedule No. 67; in all other cases they are subject to this Maximum Price Regulation No. 136 as amended. Parts, subassemblies, attachments and accessories, other than standard extras, sold by a subcontractor to a machine-tool manufacturer are subject to this Maximum Price Regulation No. 136 as amended. Rentals of machine tools and the service of repairing and rebuilding machine tools are subject to this Maximum Price Regulation No. 136 as amended.

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military purposes; (3) any items sold or delivered pursuant to contracts entered into by the Army, Navy, Defense Plant Corporation, Maritime Commission, Panama Canal, Procurement Division of the Treasury, or any other agency of the United States prior to February 18, 1942; (4) any items covered in paragraph (j) of this section.

[Paragraph (l) added by Amendment 62, 7 F.R. 10230, effective 12-11-42]

§ 1390.33 *Appendix B: Machines and parts to which the March 31, 1942, date is applicable.* (a) Any part or subassembly of any item mentioned in Appendix A, except that when the manufacturer also manufactures one or more complete items mentioned in Appendix A and the part or subassembly in question is also in some cases used as a component of such complete item, then the part or subassembly is not included within this section but is included within Appendix A. This paragraph does not include any part or subassembly which is itself covered in Appendix A or which is mentioned in Appendix C.

[Paragraph (a) amended by Am. 25, 7 F.R. 7912, effective 10-9-42]

(b) Any part or subassembly of any item listed in this Appendix B. Also, any industrial machinery, or part or subassembly of any industrial machinery, which is not listed in Appendices A or B. "Industrial machinery" means any machinery or equipment used in the extraction, production or processing of commodities. The term "industrial machinery" does not include farm equipment covered by Maximum Price Regulation 246¹⁴—Manufacturers' and Wholesale Prices for Farm Equipment, or any product excluded from the coverage of this regulation by Appendix C.

[Paragraph (b) amended by Am. 1, 7 F.R. 5665, effective 7-22-42 and Am. 107, 9 F.R. 1523, effective 2-11-44]

(c) *Miscellaneous.*

Automotive testing and maintenance equipment, mechanical and electrical (not including any portable tools, machine or hand tools, or mechanical or electrical instruments set forth in § 1390.32).

Battery chargers (except motor generator sets).

Belting, leather.

Blocks and sheaves, tackle.

Brushes, industrial power-driven.

Bushings, porcelain, glass and steatite for electrical uses.

Casters, except those subject to Appendix A of this regulation.

Chain, chain fittings and assemblies (except jewelry chains subject to Maximum Price Regulation 188, cast manganese steel chain subject to Maximum Price Regulation 235, and power transmission chains covered by Appendix A of this regulation).

Cutting tools, including the following illustrative list:

Augers, machine.

Bits, machine.

Blades, hacksaw—all types.

Blades, power driven saw.

Blades, machine, shear, etc.

Broaches.

Chasers.

Chisels, machine.

Counterbores.

Countersinks, machine.

¹² 8 F.R. 17184.

Cutting tools, etc.—Continued.

Cutters, machine.

Dies, cutting and threading.

Drills, twist.

Dressers, abrasive wheel (except diamond dressers).

Extractors.

Files, rasps and burrs.

Form tools.

Hobs.

Knives, machine.

Knurling tools.

Punches, machine.

Reamers.

Rules, creasing, cutting, perforating.

Scraper blades, machine.

Taps.

Tips, tool, tungsten carbide, stellite, etc.

Dies, jigs and fixtures (except when the die is sold or a separate charge is made therefor in connection with the sale of the product in the production of which it is used and the maximum price established for the product includes the price for such die).

Earth and rock anchors.

Electrical wire, cable and cable accessories (except when subject to Revised Price Schedule No. 82, as amended).¹⁵

Electronic apparatus and parts (regardless of being referred to in Appendix A) for industrial, commercial or government uses, including but not limited to radar and radio transmitting and receiving equipment, other than domestic receivers and other apparatus covered by Revised Price Schedules No. 83¹⁶ and No. 84.¹⁷ Power Rectifiers are excluded from this classification, being classified under Appendix A. Fixed capacitors of the type and size used for military radio and radar equipment (these have an April 1, 1943 base date).

Gaskets and packing, except automotive.

Gears, pinions, sprockets and speed reducers specially designed for use in vehicles, aircraft or equipment used primarily for military purposes (except automotive gears, and automotive or tractor transmissions, transfer cases, power take-offs, differentials and axle assemblies).

Glass products, technical, scientific and industrial:

Electrical glassware:

Bulbs (incandescent, fluorescent, indicator, auto lamp, radio, television, X-ray, radar, power tube).

Flares (glass base portion for lighting, radio, television, radar, power tube).

Tubing (electrical, fluorescent).

Bushings.

Insulators.

Coil forms.

Capacitors.

Resistor tubes.

Fuse plugs.

Signal glassware:

Battery jars.

Fresnels.

Roundels.

Front glasses.

Lenses.

Airplane running light.

Obstruction light.

Explosion resisting globe.

Optical ware (color and light filters).

Laboratory and pharmaceutical glassware:

Chemical ware.

Instrument tubing.

¹⁴ 7 F.R. 1358, 2133, 7034, 8948; 8 F.R. 5810, 10656, 17296; 9 F.R. 2821, 2858, 2887.

¹⁵ 7 F.R. 1360, 2000, 2132, 2302, 3125, 3820, 8948.

¹⁶ 7 F.R. 1362, 2000, 2132, 2169, 2303, 2512, 2543, 3821, 6771, 7902, 8948; 8 F.R. 3703, 5632, 15523.

Glass products—Continued.

Laboratory and pharmaceutical glassware—Continued.

Laboratory apparatus tubing.

Apparatus ware.

Pharmaceutical ware.

Industrial glassware:

Glass bulbs.

Flat gauge glasses.

Cylinders.

Gauge cup and oil cup glasses.

Rods, tubing and piping.

Meter and relay covers.

Miscellaneous industrial glassware (that is to be further fabricated by others, or that is to be incorporated as a component part of an industrial product).

Optical glass:

Rough glass blanks for optical, ophthalmic and scientific use.

Governors, engine.

Ground steel stock for punches, dies, jigs, fixtures, etc.

Hand-operated tools, especially designed for manufacture, repair, or maintenance of aircraft, military vehicles or other predominantly military equipment.

Insulators, porcelain, glass and steatite for electrical uses.

Inter-communicating systems, electronic.

Jacks and jack screws, manually operated.

Machine and machine tool attachments and accessories (except when subject to Maximum Price Regulation 1 or Revised Price Schedule No. 67). The term machine and machine tool attachments and accessories means all devices used with, but not an integral part of, machines or machine tools and includes the following illustrative list:

Adapters.

Arbors.

Blocks, machine tool.

Brakes, spindle.

Centers, bench.

Centers, lathe.

Chucks, all types.

Clamps.

Collets.

Cutter heads.

Die heads.

Die sets.

Dogs, work driving.

Edges, straight.

Electric etchers and de-magnetizers.

Fingers, feeding.

Glasses, level.

Grinders.

Guides, adjustable.

Heads, universal dividing.

Holders, tool.

Holders, work.

Mandrels, all types.

Plates, angle.

Plates, bench.

Plates, brick liner.

Plates, face.

Plates, lapping.

Plates, surface.

Plates, wearing.

Posts, tool.

Saw accessories (sets, swages, guides, clamps, bracing tools).

Sockets.

Stops, machine.

Templates.

Wheels, buffing and polishing (except as covered by Maximum Price Regulation No. 316)¹⁷.

Manufacturers' optical processing machinery, other than optical RX laboratory machinery subject to Maximum Price Regulation No. 188¹⁸—Manufacturers' Maximum

¹⁷ 8 F.R. 1741, 11385.

¹⁸ 7 F.R. 5872, 7967, 8943, 8948, 10155; 8 F.R. 537, 1815, 1980, 3105, 3788, 3850, 4140, 4931, 6759, 7107, 8751, 8754, 9836, 10433, 10906, 11037, 12406, 12479, 12186, 12668, 14622, 14766, 12698, 17415; 9 F.R. 1912, 2556, 3095.

Prices for Specified Building Materials and Consumers' Goods Other Than Apparel.

Marine equipment:

Anchors (except those subject to Revised Price Schedule 41 and Maximum Price Regulation 351).

Boat hooks without handles.

Buoys, pontoons and rafts, metallic.

Capstans.

Chocks.

Cleats.

Controls, bulkhead and throttle.

Deck and man-hole plates, machined.

Fog horns and whistles, manually operated.

Gooseneck and boom bands.

Lights, oil.

Marlin spikes and belaying pins, metal.

Mooring and riding bits.

Port lights.

Pumps, marine, manually operated.

Reels, hawser, manually operated.

Rope guides and leaders.

Rowlocks.

Shackles.

Snaps.

Sockets.

Steering apparatus, manually operated.

Ventilators.

Metal hose and tubing, flexible (except as covered by Maximum Price Regulation No. 149—Mechanical Rubber Goods).

Military searchlights, completely assembled.

Molds and patterns (except when the mold or pattern is sold or a separate charge is made therefor in connection with the sale of the product in production of which it is used and the maximum price established for the product includes the price for such mold or pattern).

Neon indicator attachments.

New automotive trucks, motorcycles, house and truck trailers, and busses, originally designed for use as private or commercial motor vehicles, which are manufactured on or after August 12, 1943, when sold by any person. The foregoing does not include automotive trucks, motorcycles, trailers and busses specially designed for use as military vehicles, nor does it include cars and trucks covered by paragraph (g) of Appendix A as "Material Handling Equipment".

Open tanks and vessels (metal) except field erected tanks or vessels; domestic fuel oil storage tanks; products commonly known as plumbing fixtures, such as flush tanks and laundry trays; products commonly known as pans and cans, such as pails, buckets, non-returnable shipping containers, refuse receptacles, drip receivers, and waste receivers).

Pipe and tube tools, manually operated, including beading, belling, bending, cleaning, cutting, expanding and flaring, and wrenches for operating.

Pole line hardware and line construction specialties.

Power cylinders, hydraulic, pneumatic, and hydro-pneumatic.

Pressure tanks (metal) (except field erected tanks; high pressure cylinders not over 1,000 lbs. water capacity for shipping or storing liquids or gases at pressures up to 3,000 lbs. per square inch; range boilers or expansion tanks not over 192 gal. capacity; made of metal not over 12 BWG gauge).

Public address apparatus.

Replacement units and assemblies for mechanical refrigerators having a refrigerated volume of 16 cubic feet or less.

Rope fittings, manila and wire.

Screw machine products (this shall not include bolts, nuts, screws, and rivets, as defined in Maximum Price Regulation No. 147¹⁹). The sales of these are subject to Maximum Price Regulation No. 147 or the General Maximum Price Regulation, depending upon the type of seller).

Sharpening and filing equipment.

Siren blowers.

Special gages manufactured pursuant to the customer's drawings (including special purpose plug, ring, snap, height, length, and location gages, but not general purpose graduated or adjustable gages).

Specially designed tools (except those subject to Appendix A of this regulation).

Springs (except springs subject to Appendix A of this regulation, and furniture and bed springs subject to Maximum Price Regulation No. 188, Maximum Price Regulation No. 213²⁰, and Maximum Price Regulation No. 380)²¹.

Stampings, metal (except forgings, non-ferrous mill products, wire goods, steel mill products, or any product for which the manufacturer has issued a catalog or price list). The term "metal stampings" means stamped or pressed metal products which are mechanically processed by the use of dies and upon which further processing or finishing operations may or may not have been performed, when sold unassembled. A metal stamping may consist of two or more pieces which have been permanently joined by methods such as brazing, welding, soldering or riveting.

Steam cleaning equipment, degreasing equipment, and parts washing and cleaning equipment.

Testing sets for electronic equipment.

Tools, manually operated, for the cutting, forming, and punching of metals.

Turnbuckles.

Vises, all types; vise mounts, stands and supports.

Wheels (except those specially designed for military use and those subject to Appendix A of this regulation, Revised Price Schedule No. 6, Maximum Price Regulation No. 246²², and Maximum Price Regulation No. 452²³).

Winches and windlasses, manually operated.

X-ray apparatus.

X-ray and electro-therapeutic apparatus and supplies.

[Paragraph (c) amended by Am. 1, 7 F.R. 5665, effective 7-22-42; Am. 3, 7 F.R. 6425, effective 8-19-42; Am. 12, 7 F.R. 6973, effective 9-8-42; Am. 15, 7 F.R. 7010, effective 9-9-42; Am. 16, 7 F.R. 7246, effective 9-29-42; Am. 24, 7 F.R. 7907, effective 10-8-42; Am. 54, 7 F.R. 9729, effective 11-25-42; Am. 69, 8 F.R. 2270, effective 2-25-43; Am. 77, 8 F.R. 4515, effective 4-12-43; Am. 85, 8 F.R. 6614, effective 5-24-43; Am. 96, 8 F.R. 10662, effective 8-12-43; Am. 97, 8 F.R. 10988, effective 8-5-43; Am. 101, 8 F.R. 14617, effective 11-1-43; Am. 102, 8 F.R. 14619, effective 11-1-43; Am. 106, 8 F.R. 16132, effective 12-1-43; Am. 107, 9 F.R. 1523, effective 2-11-44; Am. 110, 9 F.R. 2791, effective 3-18-44 and Am. 116, effective 5-8-44]

(d) Any part or subassembly of any item mentioned in this section, excluding any part or subassembly which is itself covered in Appendix A or which is mentioned in Appendix C.

[Paragraph (d) added by Am. 25, 7 F.R. 7912, effective 10-9-42]

¹⁷ 7 F.R. 3803; 8 F.R. 8361, 12476.

¹⁸ 2d Revision: 8 F.R. 12470.

¹⁹ 8 F.R. 5929, 7114, 13712.

²⁰ 8 F.R. 17184.

²¹ 9 F.R. 3330.

§ 1390.34 Appendix C: Illustrative list of products not covered by Maximum Price Regulation No. 136, as amended.

(NOTE: Maximum prices for the following products are established by the General Maximum Price Regulation or by other price schedules, regulations, or orders issued by the Office of Price Administration)

Abrasives wheels.
Aircraft gasoline and diesel engines.
Bolts, nuts, screws, and rivets (as defined in Maximum Price Regulation No. 147).
Carpenter's tools.
Castings, ferrous and non-ferrous, as sold by the foundry, whether rough or machined.
Christmas tree lighting sets.
Dairy farm equipment.
Diamond dies.
Domestic electrical appliances (except fans and blowers).
Domestic furnaces.
Domestic laundry, dry-cleaning, and clothes pressing machinery.
Domestic radios and phonographs.
Domestic stokers.
Drill pipe, casing and tubing.
Dry batteries.
Electrical control devices used for domestic installations.
Farm pumps.
Flashlights.
Frames, bolsters, couplers, and yokes (the maximum prices of which are established by Revised Price Schedule No. 41—Steel Castings.²¹)
[Item revoked by Am. 116, effective 5-8-44]
Hand tools, except those listed in Appendices A and B.
Hand-operated pumps (except marine pumps).
Household machines.
Incandescent and fluorescent bulbs and tubes.
Instrument jewel bearings.
Iron and steel products (as defined in Revised Price Schedule No. 6.²²)
Non-ferrous bearings and bushings.
Non-ferrous forgings.
Office machines.
Parts and subassemblies sold for use in farm equipment as defined in § 1361.9 (a) (3) of Maximum Price Regulation No. 133—*Retail Prices for Farm Equipment*.
Photographic equipment.
Portable, pedestal, and ceiling household and office fans.
Portable lamps.
Radio receiving set and phonograph parts not primarily designed for commercial, police, or military use, or for use in the Navy or Merchant Marine (See Revised Price Schedule No. 84—*Radio Receiver and Phonograph Parts*).
Reducing bushings.
[Item revoked by Am. 116, effective 5-8-44]
Rubber belts and belting.
Surgical, optical, and dental instruments.
Washers.

Watches and clocks (except industrial clockwork systems used in connection with mechanical instruments.)
[§ 1390.34 amended by Am. 1, 7 F.R. 5665, effective 7-22-42; Am. 15, 7 F.R. 7010, effective 9-9-42; Am. 25, 7 F.R. 7912, effective 10-9-42; Am. 66, 8 F.R. 134, effective 1-18-43; Am. 75, 8 F.R. 4331, effective 4-8-43; Am. 84, 8 F.R. 6359, effective 5-19-43; Am. 95, 8 F.R. 9520, effective 7-23-43; Am. 102, 8 F.R. 14619, effective 11-1-43; Am. 107, 9 F.R. 1523, effective 2-11-44 and Am. 116, effective 5-8-44]

§ 1390.35 Appendix D: Table of depreciation rates.

²¹ 8 F.R. 12992, 13846; 9 F.R. 678, 2556, 3458.
²² 7 F.R. 1215, 2132, 2153, 2299, 2397, 3115, 3941, 4780, 7240, 8948; 8 F.R. 6042, 6440, 7257.

²³ 8 F.R. 10813, 13172, 15255; 9 F.R. 396.

[NOTE: The items listed in this table are not fully described. Their scope is to be ascertained from Appendix A and Appendix B. Items listed in this table are listed in the same order as they appear in Appendix A and Appendix B. The maximum price of items not listed in this table may not be ascertained by the depreciation method.]

Items in Appendix A

Machine or part	Depreciation rate per annum (percent)
(a) Prime movers, etc.:	
Diesel engines (up to 400 RPM) -----	7½
Diesel engines (above 400 RPM) -----	10
Gas engines and gas generators-----	10
Gasoline and kerosene engines-----	10
Hydraulic turbines and hydraulic turbine governors-----	5
Steam engines and steam turbines-----	5
(b) Industrial and marine power apparatus:	
Boilers (industrial), Up to 50 H. P.-----	7½
Boilers (industrial), Over 50 H. P.-----	5
Boilers (marine)-----	7½
Oil burners-----	10
Soot blowers and cleaners-----	10
Stokers-----	10
(c) Processing machinery and equipment:	
Cement making machinery-----	5
Ceramics machinery-----	7½
Chemical process machinery-----	7½
Cotton ginning machinery-----	5
Die casting machinery-----	7½
Electroplating and hot dip metal coating equipment-----	5
Floor surfacing and floor maintenance machinery (industrial)-----	10
Food and beverage machinery-----	6
Dairy machinery-----	6
Foundry machinery-----	5
Glass making machinery-----	7½
Hat making machinery-----	5
Industrial sewing machines-----	6
Laundry, dry cleaning, and clothes pressing machinery-----	6
Leather working machinery-----	7½
Packaging, wrapping, filling, and labeling machinery-----	6
Painting and varnish making machinery-----	5
Petroleum refining machinery-----	5
Pharmaceutical machinery-----	5
Plastics molding and fabricating machinery-----	7½
Printing and publishing machinery-----	9
Pulp, paper and paper products machinery-----	6
Rod and wire working machinery-----	5
Rolling mill machinery-----	5
Rubber and allied products machinery-----	6
Shoe manufacturing and repairing machinery-----	7½
Spring winding and forming machinery-----	5
Textile preparatory and finishing machinery-----	7½
Tobacco working machinery-----	7½
Lumber manufacturing and wood working machinery-----	7½
[Paragraph (c) amended by Am. 94, 8 F.R. 9139, effective 7-8-43]	
(d) Construction and mining machinery, etc.:	
Asphalt mixing plants-----	20
Backfillers, powered-----	20
Batcher plants-----	10
Bins, steel-----	10
Brooms, road, powered-----	20
Buckets, concrete, clamshell, orange peel, cableway, dragline, elevator, etc-----	20
Bulldozers-----	10
Clamps, column-----	20
Concrete carts-----	20
Concrete finishers, floor-----	15
Concrete finishers, road-----	10
Concrete mixers—portable or stationary-----	20
Concrete mixers—pavers-----	10

Items in Appendix A—Con.

Machine or part	Depreciation rate per annum (percent)
(d) Construction and mining machinery, etc.—Continued.	
Concrete mixers—truck-----	20
Concrete spreaders, road-----	10
Conveyors, belt-----	20
Cranes, crawler-----	15
Cranes, locomotive-----	10
Cranes, overhead-----	5
Cranes, truck-----	20
Crawler and non-agricultural tractors-----	20
Crushers, stone-----	10
Derricks-----	10
Ditchers-----	20
Dredgers, clamshell-----	10
Dredgers, dipper-----	10
Dredgers, hydraulic-----	5
Drilling machinery, blast hole or churn-----	15
Drilling machinery, auger-----	15
Drilling machinery, core-----	15
Drilling machinery, drifter-----	30
Drilling machinery, pneumatic percussion-----	30
Elevating graders-----	15
Excavators, dragline-----	15
Excavators, trencher-----	25
Graders, blade towed-----	15
Graders, motor patrol-----	20
Heaters, stone, sand, bitumen, concrete-----	20
Hoists, pneumatic, gas, diesel, steam, electric-----	20
Loaders, front end-----	20
Loaders, belt or bucket-----	15
Mining machinery:	
Cars, mine-----	10
Classifiers-----	10
Coal cutting machines-----	10
Convertors, copper-----	10
Conveyors-----	10
Crushers-----	10
Elevators, bucket-----	10
Flotation machines-----	10
Furnaces-----	10
Jigs-----	10
Mills-----	10
Ovens, electric-----	10
Presses, filter-----	10
Scrapers, slip-----	30
Scrapers, wheel-----	10
Screens-----	10
Separators-----	10
Skips, hoisting-----	5
Tables, concentrating-----	10
Thickeners-----	5
Tipples-----	5
Oil well equipment:	
Blowout preventers-----	30
Core barrels-----	30
Crown blocks-----	20
Derricks-----	10
Drawworks-----	20
Drill collars-----	15
Drill pipe-----	30
Drilling rigs-----	20
Elevators-----	15
Gas lift systems-----	25
Hooks-----	10
Hydraulic pumping systems-----	25
Kellys-----	15
Meters-----	15
Oil treating plants-----	20
Oilwell pumps-----	25
Packers-----	30
Power takeoffs-----	20
Pull rods-----	20
Pumping jacks-----	10
Pumping powers-----	10
Pumping units-----	10
Rotaries-----	20
Regulators-----	15
Rotary fishing tools-----	20
Separators-----	15
Spudders-----	20
Submersible elec. pumps-----	25
Sucker rods-----	35
Tanks (shop assembled)-----	15

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Items in Appendix A—Con.

Machine or part	Depreciation rate per annum (percent)
(d) Construction and mining machinery, etc.—Continued.	
Oil well equipment—Continued.	
Tongs	15
Tool joints	30
Traveling blocks	20
Water treating plants	20
Well servicing hoists	20
Pile drivers, drop	5
Pile drivers, steam hammers	5
Plows, snow	10
Portable power driven tools	25
Pneumatic tools; drills, jack hammers, rivet hammers, tampers, chippers, paving breakers	30
Rollers, powered road	10
Rollers, sheepfoot tamping	10
Scrapers, carry type	15
Screens	20
Shovels, powered	15
Spreaders, material	20
Vibrators	30
(e) Electrical equipment (all items)	5
(f) Railroad equipment (all items)	5
(g) Auxiliary equipment:	
Air conditioning equipment	5
Dust collecting equipment	10
Furnaces	7½
Ovens	10
Heat exchange equipment	7
Lubricating systems and devices	10
Metal marking and numbering machines	8
Material handling equipment	3
Open tanks and vessels	4
Pressure tanks	5
Refrigerating equipment	5
Water softening and purifying equipment	5
(h) Miscellaneous:	
Elevators	10
Conveyors	6
Fans and blowers	5
Gas welding and cutting equipment	8
Gyroscopes	10
Industrial power operated devices for applying protective coatings, etc.	10
Mechanical instruments for measuring, testing, recording or indicating and precision instruments	10
Portable heating, melting, burning and thawing equipment	12½
Pumps and compressors	10
Scientific and laboratory instruments	6
Surveying and drafting instruments	8
Engineering reproduction equipment	8
Weighing scales	7½
Valves	10

Items in Appendix B

Automotive parts, subassemblies and accessories	
Automotive testing and maintenance equipment	
Battery chargers	15
Chucks, mandrels, collets and machine-tool attachments	10
Earth and rock anchors	10
Electrical wire, cable and cable accessories	5
Governors, engine	10
Hand operated tools, specially designed for manufacture, repair, or maintenance of aircraft, military vehicles, etc.	10
Neon indicator attachments	10
Pole line hardware and line construction specialties	10
Power cylinders	5
Sharpening and filing equipment	5
Siren blowers	10

[§ 1390.35 added by Am. 76, 8 F.R. 4476, effective 4-10-43, and amended by Am. 106, 8 F.R. 16132, effective 12-1-43. Former § 1390.35 added by Am. 2, 7 F.R. 5908, effective 7-30-42 and revoked by Am. 60, 7 F.R. 10109, effective 12-8-42]

§ 1390.36 Appendix E: Form for application for adjustment—(a) Form for application for adjustment of maximum prices of machines and parts—(1) Form.

Form OPA 694:178a

Form Approved
Budget Bureau No. 08-R388

UNITED STATES OF AMERICA
OFFICE OF PRICE ADMINISTRATION
Washington, D. C.

Application for Adjustment of Maximum Prices for Machines and Parts Under Maximum Price Regulation No. 136, as Amended

Company name

Address

(Street) (City) (State)

The following facts are furnished to the Office of Price Administration in support of this Application:

SCHEDULE A

1. General description of the company's business.

2. Designate and describe product(s) for which price increase is requested.

3. Present the following information for each product listed in Item 2 above.

NOTE: If more than one product is being reported, present the required information on another sheet.

(a) Dollar volume of unfilled orders, \$-----

(b) Unit volume of unfilled orders. (Indicate unit used), -----

(c) Degree of completion of production on unfilled orders, %-----

(d) Anticipated dollar volume of new orders for the next: 3 months, \$-----; 6 months, \$-----; 12 months, \$-----

4. Present evidence that the company is an essential supplier of an essential machine or part.

NOTE: If more than one product is being reported, present the required information on another sheet.

(a) For each product designated in Item 2 above, fill in the following if you have entered into, or propose to enter into, a war contract or subcontract for the sale of that product.

(1) Identification of contract -----

(2) Name of purchaser -----

(3) Address of purchaser -----

(Street) (City) (State)

(b) Present any other information which demonstrates that the seller is an essential supplier of an essential machine or part.

(NOTE: The terms "war contract," "subcontract", "essential supplier", and "essential machine or part" are defined in the adjustment provision under which this report is filed (§ 1390.25a of Maximum Price Regulation No. 136, as Amended).)

5. Are similar machines or parts sold by competitors in your region? -----

(Yes or No)

If yes, give names and addresses of competitors, and their prices for such machines or parts.

SCHEDULE B

Important. If you have submitted any of the following information on Office of Price Administration Financial Report Forms A and B for certain periods or have furnished same on a previous application for adjustment of a maximum price, you may omit those periods in your present report. In the case of a subsidiary wholly owned by a parent corporation consolidated financial statements as well as financial statements for the subsidiary should be submitted.

SCHEDULE B—Continued

1. Submit balance sheets and profit and loss statements for the years 1941 and 1942, and for the most recent accounting period in 1943.

(Note: Each profit and loss statement must contain a detailed breakdown of cost of goods sold, administrative expense, selling expenses, the total amount of officers' salaries and bonuses and the number of officers.)

2. Financial data 1936-1940.

(Note: The filing of the financial data designated in this item is optional. Should the applicant prefer, this information will be obtained by the Office of Price Administration directly from the Bureau of Internal Revenue.)

Either submit balance sheets and profit and loss statements for the years 1936-1940, or fill in the following condensed table.

	1936	1937	1938	1939	1940
Net sales					
Cost of goods sold					
Administrative expense					
Selling expenses					
Net operating profit					
Other income less other expenses					
Net profit before income taxes					
Debt (except current) at end of year					
Net worth at end of year					
Total assets					

3. As the salaries and wages of all your employees in compliance with the maximum established by the Office for Economic Stabilization?

(Yes or No)

If no, state exceptions.

SCHEDULE C

UNIT PRICE AND COST INFORMATION

Designation of Product:

Note: If more than one product is involved, prepare and file separate reports on this schedule for each product that you consider necessary to convey an adequate understanding of the situation which gave rise to this application.

1. Price data.

(a) Net realized price:

	Ceiling price, 194-	Current price	Re-requested price
1. (List) (Gross) price.			
2. Less: Trade discounts.			
3. Net realized price.			
4. Net realized price at maximum discount and/or commissions.			

(b) Analysis of sales of the above designated product: Sales for ----- (No. of months)

month period -----, 1943. (Month and Day)

	Percentage amount of commission or discounts	Dollar value of sales after discounts
Sales subject to commission of (1)	%	\$-----
Sales subject to commission of (2)	%	\$-----
Sales not subject to commission	XXX	\$-----
Sales subject to discount of (1)	%	\$-----
Sales subject to discount of (2)	%	\$-----
Sales subject to discount of (3)	%	\$-----
Sales subject to discount of (4)	%	\$-----
Sales not subject to discount	XXX	\$-----
Total sales of above designated product	XXX	\$-----

(c) Total sales for the above designated product only:

	1940	1941	1942	months ending 1943
Total unit volume of sales				
Total dollar volume of sales (net)	\$	\$	\$	\$

(d) Is the price currently charged for the product the same as the maximum price filed with OPA? _____

(Yes or No)

(If answer is "No", state date when increased price was first charged.) Date: _____, 194____.

(Month)

(e) Indicate whether the current maximum price is a list or established price () or a formula price () (Check one). Price used since _____, 194____.

(Month)

(f) State on a separate sheet the reasons for the need of the requested price increase.

2. Unit Cost Data:

	Ceiling date costs, 1942	Costs, October 1942	Current date costs, 1943
(a) Direct material	\$	\$	\$
(b) Direct labor			
(c) Factory overhead			
(d) Selling expense (do not include discounts and commissions under Price Data above)			
(e) Administrative expense			
(f) Freight out, if any			
(g) Installation expense, if any			
(h) Other expense, specify			
(i) Total cost per unit			

(j) What method is used in allocating factory overhead?

1. Standard ; Actual ; Other (Check one).

2. Direct labor cost ; Director labor hours ; Machine hours ; Other .

(Explain separately if "other" or combination.)

AFFIDAVIT

State of _____ ss:
County of _____

(Applicant)
By _____
(Title)

The undersigned _____ being first duly sworn according to law, on oath deposes and says:

That he is the person whose name appears subscribed to the above Application for Adjustment; and that he has read the same and knows to his own knowledge that the facts contained therein are true and correct.

(Signature)

Subscribed and sworn to before me this _____ day of _____, 1943.

(Officer administering oath)

(2) Instructions for the form:

INSTRUCTIONS FOR THE USE OF ADJUSTMENT APPLICATION FORM FOR MACHINES AND PARTS

In preparing this application, please consider that the form is intended to cover a wide variety of products. Therefore, you will find that some of the questions do not apply to your product. Moreover, you may find that some point that is important in your case is

not covered in the form. Adapt the form if this can be done or state the information on a separate sheet if that will be clearer. If any difficulty is experienced in completing this form it may be taken to the nearest OPA district accountant who will give his assistance in its preparation.

Schedule C entitled "Unit Price and Cost Information" is subject to the following explanation:

1. Price Data: (a) 1. (List) (Gross) Price: Please indicate whether the price is a list price or a gross price by crossing out the term that does not apply.

(a) 2. Dealers' Commissions: Where all dealers receive the same commission, use the full commission rate even if some sales are not subject to any commission. If several different rates affect the machine covered by the application, use the rate that applies to the largest amount of sales.

(a) 3. Trade Discounts: Deduct trade discounts at the average rate of discounts prevailing in your company for the product covered by the application.

(b) Use a sufficient number of months prior to the date of the application to give an adequate understanding of the situation. Name the period in the allotted space and fill in commission rates or discounts.

2. Unit Cost Data: In presenting unit cost data be sure to include only actual cost.

Material cost must represent actual cost. State separately any charges added to costs of materials. In the case of a seller other than a manufacturer direct material means the price at which the seller purchased the machine or part.

Where standard costs are used, adjust costs for over- or under-absorption during the period to which the costs apply.

The cost data for the ceiling date may be recomputed if the machine or part covered by the application was not manufactured on or about that date. In the recomputation apply the wage rates prevailing in your plant on the ceiling date and material cost of the same date.

Under items (f), (g) and (h) include only costs borne by the seller and not billed separately to the buyer.

[Paragraph (a) amended by Am. 92, 8 F.R. 8544, effective 6-25-43]

(b) Form for application for adjustment of maximum prices of machinery services.

Form OPA 694:178b

UNITED STATES OF AMERICA
OFFICE OF PRICE ADMINISTRATION
WASHINGTON, D. C.

APPLICATION FOR ADJUSTMENT OF MAXIMUM PRICES FOR MACHINERY SERVICES UNDER MAXIMUM PRICE REGULATION NO. 136, AS AMENDED

Company Name _____
Address _____ (Street) (City) (State)

The following facts are furnished to the Office of Price Administration in support of this Application:

1. General description of company's business.

2. Type of machinery service for which price increase is requested.

3. Describe war or civilian need of the service.

4. State, on a separate sheet, the reasons for the requested price increase.

5. State the names and addresses of competitors in your region rendering the same machinery services and state the rates charged by each.

6. State whether you sell any new or used machinery, and if you do, state what it is.

7. If you sell machinery, state whether you perform any machinery services in connection with such sales, and if you do, describe the services and your method of charging for the same.

8. File the following information for the service described in Item 2 above.

(a) Price March 31, 1942 _____ \$
Present price _____ \$
Requested price _____ \$

per _____
Service unit (machine-hour, man-hour, etc.)

(b)

	Year ended 1942	Year ended 1943	months ending 1943
Total number of service units performed including those not billed			
Number of service units billed			
Dollar amount of service billings			

9. Costs per service

	Ceiling date March 31, 1942	Current date 1943 (month)	Basis of allocation (specify below)
Direct Labor			XXXXXX
Shop overhead			
Administrative expense			
Selling expense			
Other expense (specify)			
Total cost per service unit			XXXXXX
Average hourly wage rate, exclusive of overtime, for direct labor engaged in this service			XXXXXX
Average number of hours worked per man per week (Direct labor only)			XXXXXX

Important. If you have submitted any of the following information on Office of Price Administration Financial Report Forms A and B for certain periods or have reported the same on a previous application for adjustment of a maximum price, you may omit those periods in your present report. In the case of a subsidiary wholly owned by a parent corporation, the financial data should be submitted for the parent corporation.

10. Submit balance sheets and profit and loss statements for the years 1941 and 1942,

and the most recent accounting period in 1943.

(Note: Each profit and loss statement must contain a detailed breakdown of cost of goods sold, administrative expenses, selling expenses and officers' salaries, including the number of officers.)

11. Financial data, 1936-1940

(Note: The filing of the financial data designated in this item is optional. Should the applicant prefer, this information will be

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obtained by the Office of Price Administration directly from the Bureau of Internal Revenue.)

Either submit balance sheets and profit and loss statements for the years 1936-1940, or fill in the following condensed table.

	1936	1937	1938	1939	1940
Net sales					
Cost of goods sold					
Gross profit					
Administrative expenses					
Selling expense					
Net operating profit					
Other income less other expenses					
Net profit before income taxes					
Debt (except current) at end of year					
Net worth at end of year					
Total assets					

12. Are the salaries and wages of all your employees in compliance with the maximum established by the Office for Economic Stabilization?

§ 1390.37 Appendix F: Used equipment and machinery inventory and sales report—(a) Form.

Form OPA 2-10-P1 Rev. WPB-257	Form Approved Budget Bureau No. 12-R1014-2
UNITED STATES OF AMERICA Office of Price Administration War Production Board	
Used Equipment and Machinery Inventory and Sales Report	

READ CAREFULLY INSTRUCTIONS ON REVERSE SIDE
If this report is in response to a "Want Call," give the "Want Call" number _____

1. Kind of machinery or equipment	2. Manufacturer						
3. Mfr's Model or Style No.	4. Mfr's Serial No.	5. Year Built	6. Capacity	7. Equipment Identification No.			
8. Description (including type of work for which machine is now adapted)							
9. Powered by: <input type="checkbox"/> None <input type="checkbox"/> Electricity <input type="checkbox"/> Steam <input type="checkbox"/> Gas <input type="checkbox"/> Gasoline <input type="checkbox"/> Diesel <input type="checkbox"/> Air <input type="checkbox"/> Other							
10. Method of Drive: Individually driven? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Flat-belt <input type="checkbox"/> V-belt <input type="checkbox"/> Gear <input type="checkbox"/> Coupling <input type="checkbox"/> Clutch <input type="checkbox"/> Other							
11. Electrical equipment (Specify manufacturer and name plate rating)		TYPE	SPEED	H-P	VOLTAGE	PHASE	CYCLES
12. Auxiliaries and Accessories (List and give descriptions. Use back of sheet if necessary)							
13. Present condition of machine:		14. Offering price: Dollars					
<input type="checkbox"/> Rebuilt and guaranteed		<input type="checkbox"/> a. Rebuilt and guaranteed <input type="checkbox"/> b. Other condition					
<input type="checkbox"/> Other (State as per instructions)		Failure on the part of the OPA to object to an offering price does not imply its approval of such price.					
15. Indicate approximate time required to deliver this machine rebuilt and guaranteed: <input type="checkbox"/> 10 days or less <input type="checkbox"/> 30 days <input type="checkbox"/> 90 days <input type="checkbox"/> Over 90 days							
16. Maximum price of equivalent new machine (Identify by manufacturer's name and model or style number) \$ _____							

WHEN MACHINE IS SOLD, COMPLETE AND SIGN FORM BELOW

17. Sold to (Name and address) Price Date of Sale Previously reported as inventory? Yes No
18. Sold by _____ OPA License No. _____
Name of Reporting Company _____ By _____
Pen Signature of Authorized Official _____ Title _____

(b) Instructions for filling out inventory and sales report form.

(1) Who must file. Every person engaged in the business of selling second-hand ma-

chines and parts listed on the attached sheet. For example, these reports must be filed by agents, auctioneers, brokers and dealers, and machinery manufacturers who sell second-hand machines and parts. These reports must cover all second-hand machines and parts listed on the attached sheet.

Dealers, brokers, agents and manufacturers are also requested, though not required, to report specific items or classes of items, known to be available though not owned by them, in response to "Want Calls" sent out by the War Production Board for urgently needed items.

Persons not required to file, who desire aid in disposing of used equipment and machinery, may report such items on this form.

(2) Method of filing. Four copies are to be made of the inventory report. Three of these copies must be filed with the District Office of the War Production Board which is located in the district in which the person's place of business is located. These copies must be filed within five days after the acquisition of the machine or part. Inventory is reported by filling in items 1 to 16, inclusive, of the form. The remaining copy of the inventory report must be completed by the person required to file when the item is sold or otherwise disposed of. Within five days of the sale or other disposition of the item, this completed form must also be filed by the person required to file with the District Office of the War Production Board which is located in the district in which the seller's place of business is located. This filing constitutes the sales report. Only one piece of equipment may be reported on a single form, except in the case of identical items. These reports are forwarded to the Office of Price Administration by the War Production Board. Complete and accurate records of the information contained in the reports must be kept by the person filing for so long as the Emergency Price Control Act of 1942, as amended, remains in effect.

(3) Item 7. Under "Equipment Identification No." the person filing the report is to show his stock inventory number for easy reference to any particular piece of equipment or machinery. If there is no stock inventory number, this item does not have to be filled in.

(4) Item 8. Give full details on type of equipment or machine and work for which it is adapted.

(5) Item 13. Give present condition of machine in detail. The term "rebuilt and guaranteed" is defined in the regulation which covers the machine or part. Under "Other" describe by terms defined as follows:

"Unused" means a machine or part which has been transferred for use but which has never been used. Such a machine or part may be priced as new.

"Serviceable" means that the machine or part is ready for service requiring no maintenance work or repairs before installing.

"Repairable" means that the machine or part can be made ready for service by normal maintenance or minor repairs.

"Poor" means that the machine or part requires major repairs or complete rebuilding before it would be ready for service.

Machines and parts which can not qualify as "rebuilt and guaranteed" under the applicable regulation are priced as "as is" machines or parts.

chines or parts, either on his own behalf or on behalf of another, is required to report on this form additions to stock and offering and selling prices of the second-hand ma-

(6) Item 15. If it is necessary to rebuild the machine or part, check approximate time required after receipt of order.

(7) Item 17. If the machine or part is not sold but "other disposition" is made, state in item 17 what the disposition was.

LIST OF MACHINES AND PARTS FOR WHICH USED EQUIPMENT AND MACHINERY INVENTORY AND SALES REPORTS MUST BE FILED

Machine or part:	Regulation to which subject, or appendix of MPR 136 in which listed and base date	List of Machines and Parts for Which Used Equipment and Machinery Inventory and Sales Reports Must Be Filed—Continued	Regulation to which subject, or appendix of MPR 136 in which listed and base date	List of Machines and Parts for Which Used Equipment and Machinery Inventory and Sales Reports Must Be Filed—Continued
Air-conditioning equipment (25 tons' capacity and over).	Appendix A—October 1, 1941.	Car and locomotive parts and specialties, including—Continued.	Appendix A—October 1, 1941.	Cutting tools, including the following illustrative list—Con.
Asphalt mixing plants----	Appendix A—October 1, 1941.	Sides, roofs, ends, running boards, brake steps.		Extractors.
Automotive testing and maintenance equipment, mechanical and electrical (except portable tools or machine or hand tools).	Appendix B—March 31, 1942.	Spring, rigging, snubbers, shock absorbers.		Files, rasps and burrs.
Battery chargers (except motor generator sets).	Appendix B—March 31, 1942.	Steel tires.		Form tools.
Boilers, industrial and marine.	Appendix A—October 1, 1941.	Train control apparatus.		Hobs.
Capacitors (except fixed capacitors of the type and sizes used for military radio and radar equipment).	Appendix A—October 1, 1941.	Trucks, complete.		Knives, machine.
Car and locomotive parts and specialties, including:	Appendix A—October 1, 1941.	Underframes.		Knurling tools.
Bearings, truck side.		Wheels, cast iron and spun steel.		Punches, machine.
Boilers, fireboxes, front ends, and cabs fittings, fixtures, devices or appliances mounted thereon.		Cement-making machinery.	Appendix A—October 1, 1941.	Reamers.
Brakes and brake gear, Coupler devices or attachments.		Ceramics machinery-----	Appendix A—October 1, 1941.	Rules, creasing, cutting, perforating.
Devices and appliances mounted on locomotives for treatment, distribution and control of water, fuel, steam, sand and electricity.		Chemical processing machinery.	Appendix A—October 1, 1941.	Scraper blades, machine.
Doors and fixtures (except those subject to Revised Price Schedule No. 40—Builders' Hardware and Insect Screen Cloth).		Circuit breakers-----	Appendix A—October 1, 1941.	Taps.
Draft gears, buffers, and attachments.		Coal preparation equipment.	Appendix A—October 1, 1941.	Tips, tool, tungsten carbide, stellite, etc.
Driving, foundation and running gear.		Concrete mixing, placing and finishing equipment.	Appendix A—October 1, 1941.	Die-casting machinery----
Heating, lighting, ventilating and air conditioning equipment.		Condensers, synchronous--	Appendix A—October 1, 1941.	Appendix A—October 1, 1941.
Journal boxes, assembled.		Control equipment, industrial (except control devices for domestic installations).	Appendix A—October 1, 1941.	Diesel engines (except aircraft Diesel engines).
Lubricating devices.		Converters, synchronous--	Appendix A—October 1, 1941.	Distribution boards, electrical.
Miscellaneous fittings, fixtures, specialties, devices or appliances designed specifically for use on cars or locomotives (not including artillery or other exclusively military or naval equipment designed for mounting on cars or locomotives).		Core drilling machinery--	Appendix A—October 1, 1941.	Dredging machinery-----
Safety appliances and warning devices.		Cotton-ginning machinery.	Appendix A—October 1, 1941.	Dust collecting equipment, industrial.
		Cranes (overhead, crawler and locomotive) hoists and derricks.	Appendix A—October 1, 1941.	Electroplating and hot-dip metal coating equipment, including preparatory and finishing equipment used in connection with metal coating processes.
		Crawler and non-agricultural tractors.	Appendix A—October 1, 1941.	Elevators and conveyors--
		Cutting tools, including the following illustrative list:	Appendix B—March 31, 1942.	Fans and blowers (except pedestal, portable and ceiling household and office fans).
		Augers, machine.		Floor surfacing and floor maintenance machinery, industrial.
		Bits, machine.		Food and beverage machinery, including baking, canning, bottling, confectionery, brewing, grain-milling, meat packing, edible oil, sugar and dairy machinery and equipment (except dairy farm equipment).
		Blades, hacksaw—all types.		Foundry machinery, including ladies not over 40 ton capacity.
		Blades, power driven saw.		Freight cars, including all types and sizes of flanged wheel mining and industrial cars.
		Blades, machine, shear, etc.		Gas engines and gas generators.
		Broaches.		Gas welding and cutting equipment.
		Chasers.		
		Chisels, machine.		
		Counterbores.		
		Countersinks, machine.		
		Cutters, machine.		
		Dies, cutting and threading.		
		Drills, twist.		
		Dressers, abrasive wheel (except diamond dressers).		

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LIST OF MACHINES AND PARTS FOR WHICH USED EQUIPMENT AND MACHINERY INVENTORY AND SALES REPORTS MUST BE FILED—Continued

	Regulation to which subject, or appendix of MPR 136 in which listed and base date	Regulation to which subject, or appendix of MPR 136 in which listed and base date	Regulation to which subject, or appendix of MPR 136 in which listed and base date
Machine or part—Con.			
Gasoline and kerosene engines for marine, tractor railway and stationery use (except portable outboard motors).	Appendix A—October 1, 1941.	Lighting equipment, electrical:	Machine or part—Con.
Gears, pinions, sprockets, and speed reducers, but not including the following: (1) automotive or tractor transmissions, transfer cases, power take-offs, differentials or axle assemblies; and (2) any items designed for use in private or commercial motor vehicles or any items specially designed for use in vehicles, aircraft, or equipment used primarily for military purposes.	Appendix A—October 15, 1941.	Airports. Airways. Commercial. Floodlighting. Industrial. Marine. Seadromes. Street and highway.	Machine and machine tool attachments and accessories—Con.
Generators (except automotive).	Appendix A—October 1, 1941.	Locomotives and tenders, including mining and industrial.	Sockets. Stops, machine. Templates. Wheels.
Glass-making machinery—	Appendix A—October 1, 1941.	Lubricating systems and devices, industrial.	Magnets, lifting, industrial.
Gyroscopes	Appendix A—October 1, 1941.	Machines, tools, devices and appliances designed specifically for the installation, operation, maintenance, and protection of tracks, yards, signals, rolling stock, and motive power.	Appendix A—October 1, 1941.
Hat-making machinery—	Appendix A—October 1, 1941.	Machine and machine tool attachments and accessories (except those subject to Maximum Price Regulation 1). The term machine and machine tool attachments and accessories means all devices used with, but not an integral part of, machines or machine tools and includes the following illustrative list:	Appendix B—March 31, 1942.
Heat exchange equipment, industrial.	Appendix A—October 1, 1941.	Adapters. Arbors. Blocks, machine tool. Brakes, spindle. Centers, bench. Centers, lathe. Chucks, all types. Clamps. Collets. Cutter heads. Die heads. Die sets. Dogs, work driving. Edges, straight. Electric etchers and demagnetizers. Fingers, feeding. Glasses, level. Grinders. Guides, adjustable. Heads, universal dividing.	Appendix A—October 1, 1941.
Heaters, stove, sand or bitumen.	Appendix A—October 1, 1941.	Holders, tool. Holders, work. Mandrels, all types. Plates, angle. Plates, bench. Plates, brick liner. Plates, face. Plates, lapping. Plates, surface. Plates, wearing Posts, tool.	Appendix A—October 1, 1941.
Heating units and devices, electrical, industrial.	Appendix A—October 1, 1941.	Saw accessories (sets, swages, guides, clamps, bracing tools).	Appendix A—October 1, 1941.
Hydraulic turbines and hydraulic turbine governors.	Appendix A—October 1, 1941.		Appendix A—October 1, 1941.
Industrial furnaces and ovens (except space heating furnaces and stoves, blast furnaces, open hearth furnaces, Bessemer converters, soaking pits, coke ovens, and industrial furnaces used solely for the manufacture of pig iron or steel).	Appendix A—October 1, 1941.		Appendix A—October 1, 1941.
Industrial power operating devices for applying protective coatings on for the application of metals by spraying methods.	Appendix A—October 1, 1941.		Appendix A—October 1, 1941.
Instruments, electrically or magnetically actuated, for measuring, testing, recording or indicating electrical or nonelectrical quantities (except automotive).	Appendix A—October 1, 1941.		Appendix A—October 1, 1941.
Laundry, dry cleaning and clothes pressing machinery (except domestic).	Appendix A—October 1, 1941.		Appendix A—October 1, 1941.
Leather-working machinery.	Appendix A—October 1, 1941.		Appendix A—October 1, 1941.

LIST OF MACHINES AND PARTS FOR WHICH USED EQUIPMENT AND MACHINERY INVENTORY AND SALES REPORTS MUST BE FILED—Continued

	Regulation to which subject, or appendix of MPR 136 in which listed and base date	Regulation to which subject, or appendix of MPR 136 in which listed and base date	Regulation to which subject, or appendix of MPR 136 in which listed and base date
Machine or part—Con.		Machine or part—Con.	Machine or part—Con.
Petroleum refining machinery.	Appendix A—October 1, 1941.	Regulators, feeder voltage.	Transformers
Pharmaceutical machinery.	Appendix A—October 1, 1941.	Road building and maintenance machinery, including graders, pavers, rollers, etc.	Turbine generator sets
Pile drivers.	Appendix A—October 1, 1941.	Rock crushers	Valves, automatic
Pipe and tube tools, manually operated including beading, bending, cleaning, cutting, expanding, and flaring and wrenches for operating.	Appendix B—March 31, 1942.	Rod and wire working machinery.	Vises, all types; vise mounts, stands and supports.
Plastics molding and fabricating machinery.	Appendix A—October 1, 1941.	Rolling mill machinery and equipment.	Water softening and purifying equipment, industrial.
Portable heating, melting, burning and thawing equipment for industrial and transportation uses (except mechanic's fire pots and blow torches).	Appendix A—October 1, 1941.	Rubber and allied products machinery.	Weighing scales, industrial and platform.
Portable power driven tools, which in normal use are held or guided by hand and not customarily attached to a permanent support.	Appendix A—October 1, 1941.	Rubber tire and tube machinery, including retreading and recapping machinery.	Welding apparatus and supplies, electrical.
Power cylinders, hydraulic, pneumatic and hydro-pneumatic.	Appendix B—March 31, 1942.	Searchlights, electrical	Well drilling equipment
Power driven tools primarily designed for use on a bench and for the working of wood, plastics, etc. (except bench tools specially designed for metal working which are subject to Maximum Price Regulation 1).	Appendix A—October 1, 1941.	Sewing machines, industrial.	Woodworking machinery
Power operated industrial and marine soot blowers and tube cleaners.	Appendix A—October 1, 1941.	Shoe manufacturing and repairing machinery.	X-ray and electro-therapeutic apparatus
Pressure tanks, made of metal not over 12BWG gauge; erected tanks; high pressure cylinders not over 1000 pounds water capacity for shipping or storing liquids or gasses at pressures up to 3000 pounds per square inch; range boilers or expansion tanks (not over 192 gal. capacity).	MPR 465. Appendix B—March 31, 1942.	Snow plows	Appendix B—March 31, 1942.
Printing machinery.	Appendix A—October 1, 1941.	Spreaders	Appendix A—October 1, 1941.
Public address apparatus.	Appendix B—March 31, 1942.	Springs (except furniture and bed springs)	Appendix B—March 31, 1942.
Pulp, paper and paper products machinery.	Appendix A—October 1, 1941.	Spring winding and forming machinery.	Appendix A—October 1, 1941.
Pumps and compressors (except automotive, hand operated and farm pumps).	Appendix A—October 1, 1941.	Steam cleaning and degreasing equipment and parts washing and cleaning equipment.	Appendix B—March 31, 1942.
Rectifiers, power, industrial.	Appendix A—October 1, 1941.	Stokers, industrial and marine, feeding capacity of 1200 lbs. per hour or more.	Appendix A—October 1, 1941.
Refrigerating equipment, 25 H. P. and over.	Appendix A—October 1, 1941.	Substations, unit	Appendix A—October 1, 1941.
		Surveying and drafting instruments, and engineering reproduction equipment (except school, art and office supplies).	Appendix A—October 1, 1941.
		Switchgear and switchgear accessories.	Appendix A—October 1, 1941.
		Testing sets for electronic equipment.	Appendix B—March 31, 1942.
		Textile preparatory and finishing machinery and equipment, including accessories designed exclusively for use with such machinery.	Appendix A—October 1, 1941.
		Tobacco working machinery.	Appendix A—October 1, 1941.
		Tools, manually operated, for the cutting, forming and punching of metals.	Appendix B—March 31, 1942.

LIST OF MACHINES AND PARTS FOR WHICH USED EQUIPMENT AND MACHINERY INVENTORY AND SALES REPORTS MUST BE FILED—Continued

	Regulation to which subject, or appendix of MPR 136 in which listed and base date	Regulation to which subject, or appendix of MPR 136 in which listed and base date	Regulation to which subject, or appendix of MPR 136 in which listed and base date
		Machine or part—Con.	Transformers
		Regulators, feeder voltage.	Appendix A—October 1, 1941.
		Road building and maintenance machinery, including graders, pavers, rollers, etc.	Turbine generator sets
		Rock crushers	Valves, automatic
		Rod and wire working machinery.	Vises, all types; vise mounts, stands and supports.
		Rolling mill machinery and equipment.	Water softening and purifying equipment, industrial.
		Rubber and allied products machinery.	Weighing scales, industrial and platform.
		Rubber tire and tube machinery, including retreading and recapping machinery.	Welding apparatus and supplies, electrical.
		Searchlights, electrical	Well drilling equipment
		Sewing machines, industrial.	Woodworking machinery
		Shoe manufacturing and repairing machinery.	X-ray and electro-therapeutic apparatus
		Snow plows	Appendix B—March 31, 1942.
		Spreaders	Appendix A—October 1, 1941.
		Springs (except furniture and bed springs)	Appendix B—March 31, 1942.
		Spring winding and forming machinery.	Appendix A—October 1, 1941.
		Steam cleaning and degreasing equipment and parts washing and cleaning equipment.	Appendix B—March 31, 1942.
		Stokers, industrial and marine, feeding capacity of 1200 lbs. per hour or more.	Appendix A—October 1, 1941.
		Substations, unit	Appendix A—October 1, 1941.
		Surveying and drafting instruments, and engineering reproduction equipment (except school, art and office supplies).	Appendix A—October 1, 1941.
		Switchgear and switchgear accessories.	Appendix A—October 1, 1941.
		Testing sets for electronic equipment.	Appendix B—March 31, 1942.
		Textile preparatory and finishing machinery and equipment, including accessories designed exclusively for use with such machinery.	Appendix A—October 1, 1941.
		Tobacco working machinery.	Appendix A—October 1, 1941.
		Tools, manually operated, for the cutting, forming and punching of metals.	Appendix B—March 31, 1942.

[\$ 1390.37 added by Am. 114, 9 F.R. 4020, effective 4-15-44.]

NOTE: All reporting and record-keeping requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Issued this 3d day of May 1944.

CHESTER BOWLES,
Administrator.[F. R. Doc. 44-6330; Filed, May 3, 1944;
4:46 p. m.]PART 1499—COMMODITIES AND SERVICES
[Rev. SR 11¹ to GMPR,² incl. Amdts. 1-47]

EXCEPTIONS FOR CERTAIN SERVICES

Section 1499.46 (b) (143) is added by Amendment No. 47 effective May 8, 1944, so that Revised Supplementary Regulation 11 shall read as follows:

A statement of the considerations involved in the issuance of this revised regulation, issued simultaneously herewith, has been filed with the Division of the Federal Register.³ § 1499.46 is amended to read as set forth below:

§ 1499.46 Exceptions for certain services. (a) The provisions of the General Maximum Price Regulation, other than § 1499.11 (a), shall not apply to the following services during the period specified:

(1) Until September 1, 1942, to the transportation of property in tank trucks

¹ 7 F.R. 6426.² 9 F.R. 1385.³ Statements of considerations are also issued simultaneously with amendments. Copies may be obtained from the Office of Price Administration.

FEDERAL REGISTER, Friday, May 5, 1944

by carriers other than common carriers within the exemption conferred by section 302 (c) (2) of the Emergency Price Control Act of 1942.

(2) From April 10, 1943, to February 1, 1944, inclusive, to the storage of property and services incidental thereto (other than cold storage and other than tank storage of liquid commodities) for the War Department.

[Paragraph (a) amended by Am. 1, 7 F.R. 6965, effective 9-1-42; Am. 17, 8 F.R. 4783, effective 4-10-43; Am. 26, 8 F.R. 8512, effective 6-15-43; Am. 34, 8 F.R. 11434, effective 8-15-43; Am. 37, 8 F.R. 14156, effective 10-15-43 and Am. 41, 8 F.R. 16867, effective 12-15-43.]

(b) The provisions of the General Maximum Price Regulation shall not apply to the rates, fees, charges or compensation for the following services:

(1) Accountants and auditors—fees and charges of.

(2) Actuaries—fees and charges of.

(3) Advertising agencies—rates charged by.

(4) Advertising facilities (outdoor)—rates charged for use of.

(5) Agents: Artists', authors', playwrights', actors'—fees and charges of.

(6) Adjustment agencies—fees and charges of.

(7) Animals—boarding, clipping, shoeing, or rental of.

(8) Arbitration and conciliation services—fees and charges of.

(9) Architects—fees and charges of.

(10) Authors—fees and compensation of.

(11) Boats, ships and vessels—repairs to, when performed for a War Procurement Agency; and the painting of all ocean-going vessels.

[Subparagraph (11) as amended by Am. 39, 8 F.R. 15432, effective 11-15-43.]

(12) Bookkeeping services—compensation for.

(13) Booking agents (theatrical, etc.)—fees and charges of.

(14) Check-cashing services—fees and charges for.

(15) Chemists (consulting)—fees and compensation of.

(16) Cider pressing or grape crushing.

(17) Cigarette lighter repair.

(18) Claim adjusting—charges for.

(19) Clock or watch repair or rental.

(20) Collection bureaus and agencies—fees and rates of.

(21) Correspondents—fees and compensation of.

(22) Court reporting—fees and charges for.

[Subparagraph (22) as amended by Am. 28, 8 F.R. 9066, effective 7-1-43.]

(23) Credit information services—rates and charges for.

(24) Detective agencies—fees and charges of.

(25) Disinfecting.

(26) Dusting or spraying of trees, bushes, or plants.

(27) Efficiency experts—fees and charges of.

(28) Electricity—rates charged for, by companies furnishing as public utilities.

[Subparagraph (28) as amended by Am. 9, 7 F.R. 9195, effective 11-13-42.]

(29) Employment agencies—rates charged by.

(30) Engineers, consulting (civil, electrical, mechanical, marine, etc.), other than engineering firms engaged in the sale of equipment or in contract construction—fees and charges of.

(31) Engrossing of diplomas, resolutions and similar documents.

(32) Entertainers—fees and compensation of.

(33) Express companies and freight forwarders offering their services to the general public as common carriers—rates charged by.

(34) Exterminating.

(35) Electrical logging of oil-well holes—charges for.

(36) Financial services—fees and charges for.

(37) Farm-management services—fees and charges for.

(38) [Revoked]

[Subparagraph (38) revoked by Am. 32, 8 F.R. 10939, effective 8-10-43.]

(39) Fountain pen and mechanical pencil repair.

(40) Fumigating, except the fumigating of feed, grain and seeds.

(41) Gas—rates charged for, by companies furnishing as public utilities through mains.

[Subparagraph (41) as amended by Am. 9, 7 F.R. 9195, effective 11-13-42.]

(42) Grading, inspecting, or licensing fees fixed, approved, or collected by the United States Department of Agriculture.

(43) Grain warehousing services performed for the United States or any agency thereof.

(44) Hunting, fishing, and trapping on preserves—rates charged for.

(45) Incorporation services—fees and charges for.

(46) Insurance—rates charged by any person selling or underwriting.

(47) Investment counselling—fees and charges for.

(48) Jewelry and articles of gold, silver or plated ware, repair and engraving of, and the cutting, polishing and setting of precious or semi-precious stones and pearls. (Storage of such commodities in safe deposit facilities is subject to Maximum Price Regulation No. 165 as amended; storage otherwise than in safe deposit facilities is subject to the General Maximum Price Regulation.)

[Subparagraph (48) as amended by Am. 8, 7 F.R. 9195, effective 11-13-42.]

(49) Lawyers—fees and charges of.

(50) Lecturers—fees and compensation of.

(51) Light, heat, or power—rates charged for, by companies furnishing as public utilities.

[Subparagraph (51) as amended by Am. 9, 7 F.R. 9195, effective 11-13-42.]

(52) Livery stables—renting of horses or horse-drawn vehicles.

(53) Mannequin and modeling services—fees and compensation for.

(54) Marketing forecasting—fees and charges for.

(55) Marine salvage operations, including the leasing or rental of equipment incident thereto.

(56) Merchandising counsel—fees and charges of.

(57) Motion pictures or other theater enterprise—rates charged by.

(58) Musical instruments—repair, maintenance, tuning or rental of.

(59) News syndicates—rates charged by.

(60) Newspapers, periodicals and magazines—rates charged by.

(61) Notary Publics—fees and charges of.

(62) Personnel management services—fees and charges for.

(63) Press association and feature services—rates charged by.

(64) Process servers—fees and charges of.

(65) Public-relation and publicity counsels—fees and charges of.

(66) Radio and television stations—rates charged by.

(67) Services of publishing, printing, typesetting, platemaking, binding or related services in connection with:

(i) Books, magazines, periodicals, newspapers, pamphlets, leaflets, sheet music, music rolls, stamp albums, maps, charts, catalogs, directories, programs, house organs, menus, advertising matter printed on paper (except such articles as containers, labels and book matches, the form of which serves a purpose other than that of advertising), time tables, tariffs, and price lists: *Provided, however,* That this exception shall not include any of such services rendered in connection with any commodity listed in Appendix A (§ 1347.475) to Maximum Price Regulation No. 225;

(ii) All papers and paper products when supplied by persons engaged primarily in the business of rendering such services, whose total gross sales in 1941 of printed papers and printed paper products and services rendered in connection therewith did not exceed \$20,000.

[Subparagraph (67) as amended by Am. 3, 7 F.R. 7604, effective 9-29-42.]

(68) Research services (food, investment, laboratory, statistical, marketing, etc.)—fees and charges for.

(69) Saddles, luggage or handbags, whether made of leather or other materials—repair or maintenance of.

(70) Seismographic exploration—rates charged for.

(71) Services rendered in connection with title guaranty, title search, abstracting and surveying—fees and charges for.

(72) Services rendered on the farm in connection with the planting, cultivating, harvesting or preparation for market of agricultural commodities or in connection with the raising or preparation for market of live stock or poultry or live stock or poultry products (but not including repairs to or maintenance of farm buildings and other farm structures, or repairs or maintenance of farm equipment)—rates, charges, and compensation for.

(73) Services the rates for which are regulated by the Department of Agriculture under the Stockyards and Packers Act.

(74) Shoe shining.

(75) Shot-hole drilling—fees and charges for.

(76) Speakers' bureaus—fees and charges of.

(77) Systematizing services—fees and charges for.

(78) Tax consultants—fees and charges of.

(79) Taxidermy.

(80) Telephone service, secretarial—rates charged for.

(81) Telephone services—rates charged for.

(82) Telegraph service—rates charged for.

(83) Tents or flies—repairing, waterproofing, or rental of.

(84) Termite control.

(85) Ticker services—fees and charges for.

(86) Ticket services and agencies for theater, or passenger transportation—fees and charges for.

(87) Tourist agencies and travel bureaus—fees and charges of.

(88) Toys (including, but not limited to, dolls)—repair of.

(89) Traffic consultants—fees and charges of.

(90) Translation services—fees and charges for.

(91) Transportation of commodities by persons offering their services to the general public as common carriers by rail, water, motor, pipe line, or other means of conveyances, rates charged for.

[Subparagraph (91) as amended by Am. 45. 9 F.R. 3331, effective 3-24-44.]

(92) Transportation of persons—rates charged for.

(93) Tree surgery—fees and charges for.

(94) Tricycles, baby carriages, or children's wheel goods—repair or rental of (including, but not limited to, repair of tires or wheels or other parts or accessories).

(95) Umbrellas—repair or rental of.

(96) Veterinarians—fees and charges of.

(97) Wagons—repair, maintenance or rental of.

(98) Watchman services—fees and charges for.

(99) Water—rates charged for, by companies supplying to urban areas as public utilities.

[Subparagraph (99) as amended by Am. 9. 7 F.R. 9195, effective 11-13-42.]

(100) Window display service—fees and charges for.

(101) Stevedoring, and carloading and unloading, when performed under a contract for any War Procurement Agency or for the government of any country whose defense the President deems vital to the defense of the United States under the terms of the Act of March 1942, entitled "An Act to Promote the Defense of the United States," or for any agency of such government.

[Subparagraph (101) added by Am. 1. 7 F.R. 6965, effective 9-1-42 and amended by Am. 13. 8 F.R. 2215, effective 2-24-43.]

(102) Loading of trucks by public dock loaders in the port of New York (includ-

ing ports in New Jersey adjacent to New York Harbor)—rates and charges for.

[Subparagraph (102) added by Am. 2. 7 F.R. 7604, effective 9-29-42.]

(103) Conversion of raw materials supplied by the customer into synthetic rubber: *Provided*, That duly authenticated copies of all contracts entered into after October 5, 1942, involving rates, fees, charges or compensation for the services exempted from General Maximum Price Regulation by this subparagraph, shall be filed by the person performing such services with the Office of Price Administration, Washington, D. C., within fifteen days after the signing of such contracts, except as otherwise authorized in writing by the Price Administrator or persons designated by him.

[Subparagraph (103) added by Am. 4. 7 F.R. 7758, effective 10-5-42; amended by Am. 11. 8 F.R. 130, effective 1-6-43.]

(104) Transportation of liming materials and superphosphate for the Department of Agriculture in the operation of the Agricultural Conservation Program of that Department, when performed by carriers other than common carriers within the exemption conferred by section 302 (c) (2) of the Emergency Price Control Act of 1942.

[Subparagraph (104) added by Am. 5. 7 F.R. 8282, effective 10-16-42.]

(105) Services supplied by the United States Post Office Department—fees and charges for.

[Subparagraph (105) added by Am. 6. 7 F.R. 8431, effective 10-22-42.]

(106) Drilling of oil or gas wells including necessary operations in connection therewith, such as preparation of location, fishing jobs, pulling, salvaging and plugging operations—fees and charges for.

(107) Fire fighting services in connection with oil and gas wells—fees and charges for.

[Subparagraphs (106) and (107) added by Am. 7. 7 F.R. 8810, effective 10-28-42.]

(108) Aircraft—lubrication, maintenance, painting, rental, repair, storage, washing, operation, conversion, modification, or other servicing of (including but not limited to maintenance of or repairs to engines, instruments, accessories, parts, and other equipment used in connection therewith).

[Subparagraph (108) added by Am. 10. 7 F.R. 9894, effective 11-25-42 and amended by Am. 19. 8 F.R. 4978, effective 4-22-43; Am. 22. 8 F.R. 7262, effective 6-3-43; Am. 31. 8 F.R. 10573, effective 8-3-43, and Am. 40. 8 F.R. 16203, effective 12-4-43.]

(109) Snow removal services and rental of equipment used in connection with snow removal, when performed for, or rented to, the United States or any agency thereof, or to any state or territorial government, or any agency or political subdivision thereof.

[Subparagraph (109) added by Am. 12. 8 F.R. 149, effective 1-7-43.]

(110) Toll bridges and toll roads—rates or tolls charged by.

[Subparagraph (110) added by Am. 14. 8 F.R. 3068, effective 3-15-43.]

(111) Milling, smelting, and refining of copper, lead and zinc ores, concentrates, mattes, speiss, bullion or blister. Further, it shall be lawful for any seller of such a service to collect and for any buyer to pay for such services heretofore rendered any sums which the seller was entitled to receive under a contract heretofore entered into even though such sums, either by themselves or together with any sums previously collected by the seller, exceed the amount which could legally have been collected prior to the date hereof.

[Subparagraph (111) added by Am. 15. 8 F.R. 3372, 3795, effective 3-24-43.]

(112) Cemetery, crematorium and mausoleum services and facilities—rates and charges for; burial plots and their upkeep; grave excavating; interment; incineration and storage of human remains.

[Subparagraph (112) added by Am. 16. 8 F.R. 4139, effective 4-5-43.]

(113) Consuls and consulates of foreign governments—fees and charges of.

[Subparagraph (113) added by Am. 18. 8 F.R. 4521, effective 4-12-43.]

(114) Any manufacturing service performed by a person other than the manufacturer in the production of any product excepted from the General Maximum Price Regulation by section 4.3 (a), (b) or (c) of Revised Supplementary Regulation No. 1 (such excepted products being in the nature of war material and component parts and subassemblies thereof) if all or part of the material on which such service is performed is supplied by the manufacturer.

(115) Any service supplied pursuant to a contract or subcontract certified as "developmental" as specified in, and subject to the provisos of, section 4.4 of Revised Supplementary Regulation No. 1.

(116) Any machinery service as defined in Maximum Price Regulation No. 136, as amended.

(117) Any demolition, wrecking or site-clearance service which is part of and is included within the sale of any temporary building sold apart from the land by the United States or any agency thereof.

[Subparagraphs (114), (115), (116) and (117) added by Am. 19. 8 F.R. 4978, effective 4-22-43.]

(118) Pilotage—fees and charges for.

(119) Steamship agents—fees and charges of.

[Subparagraphs (118) and (119) added by Am. 20. 8 F.R. 5820, effective 5-8-43.]

(120) Transportation of United States mail and parcel post.

[Subparagraph (120) added by Am. 21. 8 F.R. 6673, 7670, effective 5-19-43.]

(121) Any operation performed in the processing, machining, welding, treating, or finishing of a steel valve (or any part or subassembly thereof) for a valve manufacturer who has previously en-

tered into a contract entitled "Contract Between the Navy Department and Valve Manufacturers for Reimbursement of Added Cost on Subcontracted Valves and Valve Parts," or for a subcontractor for the ultimate use of such valve manufacturer, except that if the same kind of service was performed for the same valve manufacturer or subcontractor by the same seller prior to June 7, 1943, the performance of such service by the seller after June 7, 1943, shall not be exempt under this subparagraph (121).

[Subparagraph (121) added by Am. 23, 8 F.R. 7668, effective 6-7-43.]

(122) Mining or concentrating iron ore—fees and charges for.

[Subparagraph (122) added by Am. 24, 8 F.R. 8541, effective 7-1-42. Effective date amended by Am. 35, 8 F.R. 12825, effective 9-10-43.]

(123) Recovery of scrap metal from slag piles.

[Subparagraph (123) added by Am. 25, 8 F.R. 8541, effective 6-24-43.]

(124) Chemical processing of knotted oriental rugs for importers and wholesalers.

[Subparagraph (124) added by Am. 27, 8 F.R. 9025, effective 7-6-43.]

(125) Transportation of petroleum and petroleum products by carriers other than common carriers, in bulk by barge between points on the Gulf Intracoastal Waterway, and its tributaries, for distances under 75 miles.

"Points on the Gulf Intracoastal Waterway" include all points which are or may be served with barge transportation by use of the Gulf Intracoastal Waterway and all points on the Mississippi River south of, and including, North Baton Rouge, Louisiana.

(126) Towage services, by carriers other than common carriers, within harbors and harbor district areas on the U. S. Gulf of Mexico.

[Subparagraph (125) and (126) added by Am. 29, 8 F.R. 9880, effective 7-16-43.]

(127) Gardening and related services (including but not limited to services rendered in connection with the preparation, maintenance, cutting, picking, or harvesting of vegetable and flower gardens, the trimming of hedges, and cutting and maintenance of lawns)—rates and charges for.

[Subparagraph (127) added by Am. 30, 8 F.R. 10573, effective 8-3-43.]

(128) Any service to tanks and military vehicles and engines, parts, accessories, instruments, and other equipment used in connection with tanks and military vehicles when rendered for any War Procurement Agency in connection with preparation for shipment (including but not limited to lubricating, painting, storing, packing, washing, testing, repairing, converting, modifying, maintaining and preparing and restoring the premises, facilities, and equipment used in connection with such services)—rates and charges for.

[Subparagraph (128) added by Am. 81, 8 F.R. 10573, effective 8-3-43.]

(129) Customhouse brokers—fees and charges of.

[Subparagraph (129) added by Am. 33, 8 F.R. 11247, effective 8-17-43.]

(130) Reconditioning of contaminated petroleum products from ocean-going vessels or for the United States or any agency thereof or for the government of any country whose defense the President deems vital to the defense of the United States under the terms of the Act of March 1942, entitled "An Act to Promote the Defense of the United States," or for any agency of such government.

[Subparagraph (130) added by Am. 36, 8 F.R. 13302, effective 10-4-43; and amended by Am. 43, 9 F.R. 1531, effective 2-11-44.]

(131) The service of fabricating concrete reinforcing bars owned by the United States government or any agency thereof.

[Subparagraph (131) added by Am. 38, 8 F.R. 14766, effective 11-1-43.]

(132) Air-raid precautionary services dealing with buildings or parts thereof.

(133) Carpentry repairs (shopwork only).

(134) Rental of costumes and dress suits.

(135) Public address systems—maintenance, rental, or repair of.

(136) Signs—maintenance, painting, or repair of.

(137) Sporting goods or recreational equipment or articles (including guns; but not including bowling or billiards and pool equipment, bicycles, canoes and boats) —remodeling, rental, maintenance, repair, and other servicing of.

[Subparagraphs (132), (133), (134), (135), (136), and (137) added by Am. 40, 8 F.R. 16203, effective 12-4-43.]

(138) Detection of flaws in rails by detector cars.

[Subparagraph (138) added by Am. 42, 8 F.R. 17485, effective 1-4-44.]

(139) Storage of property and services incidental thereto (other than cold storage and other than tank storage of liquid commodities) for the War Department, Navy Department, Procurement Division of the Treasury Department and U. S. Commercial Company in the following places:

Atlanta, Ga.
Baltimore, Md.
Boston, Mass.
Buffalo, N. Y.
Charleston, W. Va.
Chattanooga, Tenn.
Chicago, Ill.
Cincinnati, Ohio.
Corpus Christi, Tex.
Dallas, Tex.
Denver, Colo.
Des Moines, Iowa.
Detroit, Mich.
Dubuque, Iowa.
Evansville, Ind.
Fort Dodge, Iowa.
Fort Worth, Tex.
Grand Rapids, Mich.
Huntington, W. Va.
Indianapolis, Ind.
Jacksonville, Fla.
Kansas City, Mo.
Little Rock, Ark.
Los Angeles, Calif.
Louisville, Ky.

Memphis, Tenn.
Milwaukee, Wis.
Minneapolis, Minn.
Nashville, Tenn.
New Orleans, La.
Norfolk, Va.
Oklahoma City, Okla.
Omaha, Nebr.
Philadelphia, Pa.
Pittsburgh, Pa.
Port of New York.
Pueblo, Colo.
Rochester, N. Y.
St. Louis, Mo.
St. Paul, Minn.
San Francisco, Calif.
Savannah, Ga.
Seattle, Wash.
Syracuse, N. Y.
Tampa, Fla.
Toledo, Ohio.

[Subparagraph (139) added by Am. 44, 9 F.R. 1911, effective 2-1-44.]

(140) Service of storage or warehousing when performed by a person appropriately classified as a public utility and subject to regulation as such, maximum rates or charges for such service having been established, or otherwise regulated, by a federal, state, or municipal authority having jurisdiction over such rates or charges.

(141) Any service not excepted by other subparagraphs of this supplementary regulation when performed by a person appropriately classified as a public utility and subject to regulation as such, maximum rates or charges for such service having been established, or otherwise regulated, by a federal, state, or municipal authority having jurisdiction over such rates or charges.

[Subparagraphs (140) and (141) added by Am. 45, 9 F.R. 3331, effective 3-24-44.]

(142) Leasing of trucks between carriers pursuant to directions of the Office of Defense Transportation under the provisions of its Administrative Order ODT 10, issued March 10, 1944, General Order ODT 3, Revised, as amended March 10, 1944 and General Order ODT 17, as amended March 10, 1944. This exemption applies only to the compensation charged between carriers for the rental of the truck, and does not extend to any other type of truck rental or to the rates which the lessee may charge the shipper.

The exemption granted by this paragraph shall remain in effect only until July 13, 1944.

[Subparagraph (142) added by Am. 46, 9 F.R. 4030, effective 4-14-44.]

(143) Ash, debris, garbage or trash removal when performed by or for federal, state or local governmental units, or when the rates and charges for these services are fixed or must be approved thereby.

[Subparagraph (143) added by Am. 47, effective 5-8-44.]

Provided, That where, in connection with the supply or offer for supply during March 1942 of any of the services designated in paragraphs (a) and (b) of this Revised Supplementary Regulation No. 11, a commodity was sold or offered for sale, the rates, fees, charges or com-

pensation for the supply of such commodity shall not be excepted from the application of the General Maximum Price Regulation if (i) a separate charge was made during March 1942 for the supply of such commodity, and (ii) if such a commodity when sold separately would otherwise be subject to the General Maximum Price Regulation.

(c) (1) Any person furnishing a service listed in subparagraph (28), (33), (41), (51), (73), (81), (82), (91), (92), (99), (110), (140), or (141) of paragraph (b) of this section shall give notice of any proposed general increase in the rates or charges for such service thirty (30) days before the effective date of the increase. The notice shall be filed with the Transportation and Public Utilities Division of the Office of Price Administration, Washington, D. C., as provided in Procedural Regulation No. 11, as amended, and shall comply with all the applicable requirements of that regulation.

(2) The requirements of subparagraph (1) of this paragraph (c) shall be applicable for a period of only sixty (60) days from March 24, 1944 to any service listed in subparagraph (28), (33), (41), (51), (73), (91), (99), or (110) of paragraph (b) if, in the furnishing of the service, the person so doing is not properly classified as a public utility or is not regulated as such or if maximum rates or charges for the service have not been established, or are not otherwise regulated, by a federal, state, or municipal authority having jurisdiction.

(3) The requirements of subparagraph (1) of this paragraph (c) shall not be applicable to any service listed in subparagraph (81), (82), or (92) of paragraph (b) if, in the furnishing of the service, the person so doing is not properly classified as a public utility or is not regulated as such or if maximum rates or charges for the service have not been established, or are not otherwise regulated, by a federal, state, or municipal authority having jurisdiction.

[Paragraph (c) added by Am. 45, 9 F.R. 3331, effective 3-24-44. Former paragraphs (c) and (d) redesignated (d) and (e).]

(d) *Definitions.* (1) Unless the context otherwise requires, the definitions set forth in § 1499.20 of the General Maximum Price Regulation shall apply to the terms used herein.

(2) "War procurement agency" includes the War Department, the Department of the Navy, the United States Maritime Commission, the War Shipping Administration, the Office of Scientific Research and Development and the Lend-Lease Section of the Procurement Division of the Treasury Department, or any agency of the foregoing.

(3) The definition of "farm equipment" set forth in § 1361.9 (a) (3) of Maximum Price Regulation No. 133 shall apply for the purposes of this regulation.

(4) When used in this Revised Supplementary Regulation No. 11, the term:

(i) "Synthetic rubber" means a material obtained by chemical synthesis, possessing the approximate physical properties of natural rubber, when compared in either the vulcanized or unvulcanized condition, which can be vulcanized with sulphur or other chemi-

cals with the application of heat, and which, when vulcanized, is capable of rapid elastic recovery after being stretched to at least twice its length at temperatures ranging from 0° F. to 150° F. at any humidity.

[Subparagraph (4) added by Am. 11, 8 F.R. 130, effective 1-6-42.]

(e) *Effective date.* (1) Revised Supplementary Regulation No. 11 (\$ 1499.46) shall become effective August 19, 1942. [Revised Supplementary Regulation No. 11 originally issued August 13, 1942]

[Effective dates of amendments are shown in notes following the parts affected.]

Issued this 3d day of May 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44-6329; Filed, May 3, 1944;
4:46 p. m.]

PART 1394—RATIONING OF FUEL AND FUEL PRODUCTS

[IRO 5F¹; Amdt. 9]

MILEAGE RATIONING: GASOLINE REGULATIONS FOR THE TERRITORY OF HAWAII

A rationale accompanying this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Ration Order 5F is amended in the following respect:

Section 16.4 (a) is amended to read as follows:

(a) Two and five-tenths (2.5) gallons of gasoline with respect to class "A" book coupons.

This amendment shall become effective as of May 1, 1944.

Note: All record keeping and reporting requirements of this amendment have been approved by the Bureau of the Budget as required by the Federal Reports Act of 1942.

(Pub. Law 671, 76th Cong., as amended by Pub. Laws 89, 421 and 507, 77th Cong., E.O. 9125, 7 F.R. 562, Supp. Dir. 1-Q, 7 F.R. 9121, General Order No. 48, 8 F.R. 2898)

Issued this 3d day of May 1944.

MELVIN C. ROBBINS,
Territorial Director,
Territory of Hawaii.

Approved:

JAMES P. DAVIS,
Regional Administrator,
Region IX.

[F. R. Doc. 44-6327; Filed, May 3, 1944;
4:45 p. m.]

PART 1439—UNPROCESSED AGRICULTURAL COMMODITIES

[MPR 426, Amdt. 25]

FRESH FRUITS AND VEGETABLES FOR TABLE USE, SALES EXCEPT AT RETAIL

Correction

In table 8 of F.R. Doc. 44-5828, appearing at page 4434 of the issue for Wednesday, April 26, 1944, the sixth figure in column 5 should be "32½".

*Copies may be obtained from the Office of Price Administration.

¹ 8 F.R. 10742, 10757, 13125, 14155, 15985.

PART 1340—FUEL

[MPR 88¹; Amdt. 9]

FUEL OIL, GASOLINE, AND LIQUEFIED PETROLEUM GAS

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Maximum Price Regulation No. 88 is amended in the following respects:

1. Section 2.11 (c) is amended to read as follows:

(c) *Central Illinois area.* In the Counties of St. Clair, Madison, Montgomery, Bond, Clinton, Washington, Jefferson, Marion, Fayette, Shelby, Effingham, Clay, Wayne, Hamilton, Christian, White, Edwards, Wabash, Richland, Lawrence, Crawford, and Jasper in the State of Illinois the maximum prices of the products listed below in bulk lots shall be as follows:

(1) *F. o. b. shipping points for shipment to ultimate destinations in Petroleum Administration for War District One.*

Products	Cents per gallon
Kerosene and distillate fuel oils:	
42-44 API grav. w. w. kerosene	5.875
41-43 API grav. w. w. kerosene	5.75
Range or stove oil	5.375
No. 1 prime white distillate (fuel oil)	5.25
No. 1 straw fuel oil	5.125
No. 2 fuel oil	5.00
No. 3 fuel oil	4.875

¹ For Lawrence and Crawford Counties add 125.

(2) *F. o. b. refineries on sales to the United States Government or any agency thereof.*

Product	Cents per gallon
Diesel fuel, Navy Department specification 7-0-2d	5.0

¹ For Lawrence and Crawford Counties add 25.

2. Section 2.11 (d) is amended to read as follows:

(d) *Counties of Lake, Cook, DuPage and Will.* In the above counties in the State of Illinois maximum prices of the products listed below in bulk lots shall be as follows:

(1) *F. o. b. shipping points for shipment to ultimate destinations in Petroleum Administration for War District One.*

Products	Cents per gallon
Kerosene and distillate fuel oils:	
42-44 API grav. w. w. kerosene	6.125
41-43 API grav. w. w. kerosene	6.00
Range or stove oil	5.625
No. 1 prime white distillate (fuel oil)	5.50
No. 1 straw fuel oil	5.375
No. 2 fuel oil	5.25
No. 3 fuel oil	5.125

(2) *F. o. b. refineries on sales to the United States Government or any agency thereof.*

Product	Cents per gallon
Diesel fuel, Navy Department specification 7-0-2d	5.375

¹ 9 F.R. 1783, 2405, 2476, 3078, 3230, 3849, 4236, 4395, 4505.

3. Section 2.12 (b) is amended to read as follows:

(b) *Counties of Lake, Porter, and La Porte.* In the above counties in the State of Indiana the maximum prices of the products listed below in bulk lots shall be as follows:

(1) *F. o. b. shipping points for shipment to ultimate destinations in Petroleum Administration for War District One.*

Products	Cents per gallon
Kerosene and distillate fuel oils:	
42-44 API grav. w. w. kerosene	6.125
41-43 API grav. w. w. kerosene	6.00
Range or stove oil	5.625
No. 1 prime white distillate (fuel oil)	5.50
No. 1 straw fuel oil	5.375
No. 2 fuel oil	5.25
No. 3 fuel oil	5.125

(2) *F. o. b. refineries on sales to the United States Government or any agency thereof.*

Product	Cents per gallon
Diesel fuel, Navy Department specification 7-0-2d	5.375

4. Section 2.12 (c) is amended to read as follows:

(c) *Counties of Posey, Vanderburgh, Warrick, Spencer, Perry, Crawford, Harrison, Floyd, and Clark.* In the above counties in the State of Indiana the maximum prices of the products listed below in bulk lots shall be as follows:

(1) *F. o. b. shipping points for shipment to ultimate destinations in Petroleum Administration for War District One.*

Products	Cents per gallon
Kerosene and distillate fuel oils:	
41 API grav. and above w. w. kerosene	5.5
No. 1 prime white distillate (fuel oil) range or stove oil and No. 1 fuel oil	5.375
No. 2 fuel oil	5.25
No. 3 fuel oil	5.125

(2) *F. o. b. refineries on sales to the United States Government or any agency thereof.*

Product	Cents per gallon
Diesel fuel, Navy Department specification 7-0-2d	5.25

5. Section 2.12 (d) is amended to read as follows:

(d) *Indianapolis area.* In the Indianapolis area comprised of that part of the State of Indiana which is within a radius of 25 miles of the center of Indianapolis, Indiana, maximum prices for the products listed below in bulk lots shall be as follows:

(1) *F. o. b. shipping points for shipment to ultimate destinations in Petroleum Administration for War District One or the State of Michigan.*

Products	Cents per gallon
Kerosene and distillate fuel oils:	
41 API grav. and above w. w. kerosene	6.125
No. 1 prime white distillate (fuel oil) range or stove oil and No. 1 fuel oil	5.625
No. 2 fuel oil	5.50
No. 3 fuel oil	5.50

(2) *F. o. b. refineries on sales to the United States Government or any agency thereof.*

Product	Cents per gallon
Diesel fuel, Navy Department specification 7-0-2d	5.625

6. Section 2.14 (a) is amended to read as follows:

(a) *State of Kansas (except Kansas City area).* In the State of Kansas, except that part of the state which is within a radius of 25 miles of the center of Kansas City, Missouri, the maximum prices of the products listed below in bulk lots shall be as follows:

(1) *F. o. b. shipping points for shipment to ultimate destinations in Petroleum Administration for War District One.*

Products	Cents per gallon
Kerosene and distillate fuel oils:	
42-44 API grav. w. w. kerosene	4.625
41-43 API grav. w. w. kerosene	4.50
Range or stove oil	4.125
No. 1 prime white distillate (fuel oil)	4.00
No. 1 straw fuel oil	3.875
No. 2 fuel oil	3.75
No. 3 fuel oil	3.625

(2) *F. o. b. refineries on sales to the United States Government or any agency thereof.*

Product	Cents per gallon
Diesel fuel, Navy Department specification 7-0-2d	4.125

7. Section 2.14 (b) is amended to read as follows:

(b) *Kansas City area.* In that part of the State of Kansas which is within a radius of 25 miles of the center of Kansas City, Missouri, the maximum prices of the products listed below in bulk lots shall be as follows:

(1) *F. o. b. shipping points for shipment to ultimate destinations in Petroleum Administration for War District One.*

Products	Cents per gallon
Kerosene and distillate fuel oils:	
42-44 API grav. w. w. kerosene	5.125
41-43 API grav. w. w. kerosene	5.00
Range or stove oil	4.625
No. 1 prime white distillate (fuel oil)	4.50
No. 1 straw fuel oil	4.375
No. 2 fuel oil	4.25
No. 3 fuel oil	4.125

(2) *F. o. b. refineries on sales to the United States Government or any agency thereof.*

Product	Cents per gallon
Diesel fuel, Navy Department specification 7-0-2d	4.625

8. Section 2.15 (a) is amended to read as follows:

(a) *Counties of Union, Henderson, Daviess, Hancock, Breckinridge, Meade, Hardin, Bullitt, Jefferson, and Oldham.* In the above counties in the State of Kentucky the maximum prices of the products listed below in bulk lots shall be as follows:

(1) *F. o. b. shipping points for shipment to ultimate destination in Petroleum Administration for War District One.*

Products	Cents per gallon
Kerosene and distillate fuel oils:	
41 API gravity and above w. w. kerosene	5.5
No. 1 prime white distillate (fuel oil) range or stove oil and No. 1 fuel oil	5.375
No. 2 fuel oil	5.25
No. 3 fuel oil	5.125

(2) *F. o. b. refineries on sales to the United States Government or any agency thereof.*

Product	Cents per gallon
Diesel fuel, Navy Department specification 7-0-2d	5.25

9. Section 2.15 (b) is amended to read as follows:

(b) *Counties of Boone, Kenton, Campbell, Pendleton, Bracken, Mason, Lewis, Greenup, and Boyd.* In the above counties in the State of Kentucky the maximum prices of the products listed below in bulk lots shall be as follows:

(1) *F. o. b. shipping points for shipment to ultimate destinations in Petroleum Administration for War District One.*

Products	Cents per gallon
Kerosene and distillate fuel oils:	
41 API gravity and above w. w. kerosene	6.125
No. 1 prime white distillate (fuel oil) range or stove oil and No. 1 fuel oil	5.625
No. 2 fuel oil	5.50
No. 3 fuel oil	5.50

¹ For Boyd County add .125.

(2) *F. o. b. refineries on sales to the United States Government or any agency thereof.*

Product	Cents per gallon
Diesel fuel, Navy Department specification 7-0-2d	5.625

10. Section 2.20 (a) is amended to read as follows:

(a) *State of Michigan (except Wayne and Monroe Counties).* In the State of Michigan except Wayne and Monroe Counties the maximum prices of the products listed below in bulk lots f. o. b. shipping points shall be as follows:

Products	Cents per gallon
Kerosene and distillate fuel oils:	
46-49 API grav. w. w. kerosene	6.0
41-45 API grav. w. w. kerosene	5.75
No. 1 prime white distillate (fuel oil)	5.50
No. 2 fuel oil	5.25
No. 3 fuel oil	5.00
Range or stove oil	(1)
Diesel fuel (distillate): Navy Department specification 7-0-2d	2.375

¹ Range or stove oil shall take the maximum price of the product listed above of the same specifications.

² Applies only f. o. b. refineries and only on sales to the United States Government or any agency thereof.

11. Section 2.20 (b) (1) is amended to read as follows:

(1) *On shipments to Petroleum Administration of War District One.* In Wayne County in the State of Michigan the maximum prices of the products listed below in bulk lots f. o. b. shipping points for shipment to ultimate destinations in Petroleum Administration for War District One shall be as follows:

Products	Cents per gallon
Kerosene and distillate fuel oils:	
46-49 API grav. w. w. kerosene	6.25
41-45 API grav. w. w. kerosene	6.00
No. 1 prime white distillate (fuel oil)	5.75
No. 2 fuel oil	5.50
No. 3 fuel oil	5.25
Range or stove oil	(¹)
Diesel fuel (distillate): Navy Department specification 7-0-2d	5.625

¹ Range or stove oil shall take the maximum price of the product listed above of the same specifications.

² Applies only f. o. b. refineries and only on sales to the United States Government or any agency thereof.

12. Section 2.20 (b) (2) is amended to read as follows:

(2) *On shipments to destinations other than Petroleum Administration for War District One.* In Wayne County in the State of Michigan, the maximum prices of the products listed below in bulk lots f. o. b. refineries for shipment to ultimate destinations other than Petroleum Administration for War District One shall be as follows:

Products	Cents per gallon
Kerosene and distillate fuel oils:	
46-49 API grav. w. w. kerosene	6.25
41-45 API grav. w. w. kerosene	6.05
No. 1 prime white distillate (fuel oil)	5.75
No. 2 fuel oil	5.50
No. 3 fuel oil	5.25
Range or stove oil	(¹)
Diesel fuel (distillate): Navy Department specification 7-0-2d	5.625

¹ Range or stove oil shall take the maximum price of the product listed above of the same specifications.

² Applies only on sales to the United States Government or any agency thereof.

13. Section 2.23 (b) is amended to read as follows:

(b) *St. Louis area.* Within the City of St. Louis, Missouri, and that part of the State of Missouri which is within a radius of 25 miles of St. Louis, Missouri, the maximum prices of the products listed below in bulk lots shall be as follows:

(1) *F. o. b. shipping points for shipment to ultimate destinations in Petroleum Administration for War District One.*

Products	Cents per gallon
Kerosene and distillate fuel oils:	
42-44 API grav. w. w. kerosene	5.875
41-43 API grav. w. w. kerosene	5.75
Range or stove oil	5.375

Products	Cents per gallon
Kerosene and distillate fuel oils—Con.	
No. 1 prime white distillate (fuel oil)	5.25
No. 1 straw fuel oil	5.125
No. 2 fuel oil	5.00
No. 3 fuel oil	4.875

(2) *F. o. b. refineries on sales to the United States Government or any agency thereof.*

Product	Cents per gallon
Diesel fuel, Navy Department specification 7-0-2d	5.0

14. Section 2.23 (c) is amended to read as follows:

(c) *Kansas City area.* In that part of the State of Missouri which is within a radius of 25 miles of the center of Kansas City, Missouri, the maximum prices of the products listed below in bulk lots shall be as follows:

(1) *F. o. b. shipping points for shipment to ultimate destinations in Petroleum Administration for War District One.*

Products	Cents per gallon
Kerosene and distillate fuel oils:	
42-44 API grav. w. w. kerosene	5.125
41-43 API grav. w. w. kerosene	5.00
Range or stove oil	4.625
No. 1 prime white distillate (fuel oil)	4.50
No. 1 straw fuel oil	4.375
No. 2 fuel oil	4.25
No. 3 fuel oil	4.125

(2) *F. o. b. refineries on sales to the United States Government or any agency thereof.*

Product	Cents per gallon
Diesel fuel, Navy Department specification 7-0-2d	4.625

15. Section 2.33 (a) is amended to read as follows:

(a) *Counties of Cuyahoga, Lorain, Medina, Summit, Stark, Portage, Geauga, Lake, Ashtabula, Trumbull, Mahoning and Columbiana.* In the above counties in the State of Ohio the maximum prices of the products listed below in bulk lots shall be as follows:

(1) *F. o. b. shipping points for shipment to ultimate destinations in Petroleum Administration for War District One or the State of Michigan.*

Products	Cents per gallon
Kerosene and distillate fuel oils:	
41 API gravity and above w. w. kerosene	6.25
No. 1 prime white distillate (fuel oil) range or stove oil and No. 1 fuel oil	6.125
No. 2 fuel oil	6.00
No. 3 fuel oil	6.00

¹ For Stark County deduct .25.

(2) *F. o. b. refineries on sales to the United States Government or any agency thereof.*

Product	Cents per gallon
Diesel fuel, Navy Department specification 7-0-2d	5.75

16. Section 2.33 (b) is amended to read as follows:

(b) *Counties of Allen, Hancock, Lucas, Putnam, Wood, and Licking.* In the above counties in the State of Ohio the maximum prices of the products listed below in bulk lots shall be as follows:

(1) *F. o. b. shipping points for shipment to Petroleum Administration for War District One or the State of Michigan.*

Products	Cents per gallon
Kerosene and distillate fuel oils:	
41 API gravity and above w. w. kerosene	6.25
No. 1 prime white distillate (fuel oil) range or stove oil and No. 1 fuel oil	5.75
No. 2 fuel oil	5.50
No. 3 fuel oil	5.50
Diesel fuel (distillate): Navy Department specification 7-0-2d	5.625

¹ Applies only f. o. b. refineries and only on sales to the United States Government or any agency thereof.

(2) *For shipment to destinations other than in Petroleum Administration for War District One or the State of Michigan—(1) For No. 1 prime white distillate, range or stove oil and No. 1 fuel oil.* Maximum prices of No. 1 prime white distillate, range or stove oil and No. 1 fuel oil in bulk lots f. o. b. shipping points in the above counties for shipment to ultimate destinations other than Petroleum Administration for War District One or the State of Michigan shall be as those established under subparagraph (1) above or as determined under other sections of this regulation, whichever may be higher.

(ii) *For certain diesel fuel on sales to the United States Government or any agency thereof.* The maximum price for diesel fuel, Navy Department specification 7-0-2d, f. o. b. refineries in the above counties of the State of Ohio shall be 5.625¢ per gallon.

17. Section 2.33 (c) is amended to read as follows:

(c) *Counties of Hamilton, Clermont, Brown, Adams, Scioto, Lawrence, Gallia, and Meigs.* In the above counties in the State of Ohio the maximum prices of the products listed below in bulk lots shall be as follows:

(1) *F. o. b. shipping points for shipment to Petroleum Administration for War Department One or the State of Michigan.*

Products	Cents per gallon
Kerosene and distillate fuel oils:	
41 API gravity and above w. w. kerosene	6.125
No. 1 prime white distillate (fuel oil) range or stove oil and No. 1 fuel oil	5.625
No. 2 fuel oil	5.50
No. 3 fuel oil	5.50

(2) *F. o. b. refineries on sales to the United States Government or any agency thereof.*

Product	Cents per gallon
Diesel fuel, Navy Department specification 7-0-2d	5.625

FEDERAL REGISTER, Friday, May 5, 1944

18. Section 2.34 (a) is amended to read as follows:

(a) *State of Oklahoma.* Maximum prices, f. o. b. refineries in the State of Oklahoma, of the products listed below in bulk lots loaded into tank cars and motor transports shall be as follows:

Products	Cents per gallon
Kerosene, distillate fuel oils and gas oils:	
42-44 API grav. w. w. kerosene	4.50
41-43 API grav. w. w. kerosene	4.375
Range or stove oil	4.00
No. 1 prime white distillate (fuel oil)	3.875
No. 1 straw fuel oil	3.75
No. 2 fuel oil	3.625
No. 3 fuel oil	3.50
Gas oil zero cold test (32-86 API gravity)	3.375
Gas oil, ordinary	8.00
Diesel fuel (distillate): Navy Department specification 7-0-2d	4.00

¹ Applies only on sales to United States Government or any agency thereof.

This amendment shall become effective as of May 1, 1944.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of May 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44-6328; Filed, May 3, 1944;
4:45 p. m.]

PART 1347—PAPER, PAPER PRODUCTS, RAW MATERIALS FOR PAPER AND PAPER PRODUCTS, PRINTING AND PUBLISHING

[RMPR 187.¹ Amdt. 5]

CERTAIN PAPERBOARD PRODUCTS

A statement of the considerations involved in the issuance of this Amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Revised Maximum Price Regulation No. 187 is amended in the following respects:

Appendix B is added to read as follows:

APPENDIX B—MAXIMUM PRICES FOR TWO PIECE CORRUGATED GARMENT BOXES

(a) Notwithstanding the previous section 1 (c) and Appendix A of this Revised Maximum Price Regulation No. 187, manufacturer's maximum prices for two piece corrugated garment boxes of the sizes indicated, fabricated in the Metropolitan Area of New York and sold either in or out of such area shall not exceed the following:

(1) *Maximum prices.*

Style:	Per box
P. P.	\$0.105
Single	.12
30-2	.17
30-3	.18
30-4	.195
30-6	.22
30-9	.255

*Copies may be obtained from the Office of Price Administration.

¹ 8 F.R. 14395, 17367; 9 F.R. 1320.

Style:	Per box	Square feet per M boxes
30-12	.83	16,500
36-2	.18	20,700
36-3	.19	28,300
36-4	.215	
36-6	.24	
36-9	.275	
42-4	.27	
42-6	.29	
42-9	.315	
42-12	.42	

(2) *Charges for delivery.* Every manufacturer shall continue to sell on a delivered price basis to such purchasers, zones or areas to which he customarily made shipments on a delivered price basis during the period October 1-31, 1941, inclusive.

(i) In the case of shipments to points within a free delivery zone or area within which no charge for delivery was added or would have been added by the manufacturer during the period October 1-31, 1941, inclusive, the manufacturer shall not add to the maximum price established in subparagraph (1) above, any charge for delivery.

(ii) In the case of shipments to points, with the exception of shipments to points described in subdivision (i) above, for which the manufacturer added a charge for delivery, the manufacturer may add to the maximum prices established in subparagraph (1) above, his customary and established delivery charge: *Provided*, That in no instance may the amount of the delivery charge so added exceed the highest charge actually obtained or which would have been obtained for an identical shipment to the same purchaser, zones or areas during the period October 1-31, 1941, inclusive, by the means of transportation customarily employed for shipments to such purchaser, zones or areas, during such period.

(b) For the purposes of this Appendix B, the term:

(1) "Metropolitan area of New York" means any place within a forty mile radius of the New York City Hall.

(2) "Two piece corrugated garment box" means any unprinted two piece non-test corrugated design box of the following inside dimensions for the respective sizes, with a $\frac{1}{2}$ " tolerance in any one dimension:

Parcel Post	17 -11 -1 $\frac{1}{2}$
Singles	21 -13 $\frac{1}{2}$ -2 $\frac{1}{2}$
30-2	27 $\frac{1}{2}$ -15 $\frac{1}{2}$ -2
30-3	27 $\frac{1}{2}$ -15 $\frac{1}{2}$ -2 $\frac{1}{2}$
30-4	27 $\frac{1}{2}$ -15 $\frac{1}{2}$ -3 $\frac{1}{2}$
30-6	27 $\frac{1}{2}$ -15 $\frac{1}{2}$ -5
30-9	27 $\frac{1}{2}$ -15 $\frac{1}{2}$ -7
30-12	27 $\frac{1}{2}$ -15 $\frac{1}{2}$ -10
36-2	33 $\frac{1}{2}$ -15 $\frac{1}{2}$ -2
36-3	33 $\frac{1}{2}$ -15 $\frac{1}{2}$ -2 $\frac{1}{2}$
36-4	33 $\frac{1}{2}$ -15 $\frac{1}{2}$ -3 $\frac{1}{2}$
36-6	33 $\frac{1}{2}$ -15 $\frac{1}{2}$ -5
36-9	33 $\frac{1}{2}$ -15 $\frac{1}{2}$ -7
42-4	39 $\frac{1}{2}$ -15 $\frac{1}{2}$ -3 $\frac{1}{2}$
42-6	39 $\frac{1}{2}$ -15 $\frac{1}{2}$ -5
42-9	39 $\frac{1}{2}$ -15 $\frac{1}{2}$ -7
42-12	39 $\frac{1}{2}$ -15 $\frac{1}{2}$ -10

In no event shall the tolerance in dimensions reduce the board area of the box to less than that provided below for the respective size:

P. P.	Square feet per M boxes
Singles	4,300
30-2	6,200
30-3	8,100
30-4	8,900
30-5	10,200
30-6	12,500
30-9	16,200
30-12	22,800
36-2	9,500
36-3	10,200
36-4	12,000
36-5	14,500
36-6	18,300
36-9	18,700

Furthermore, if requested by the purchaser, each box except parcel post and singles must contain at least one string of the customary type and length, properly attached to the box in order to accomplish the purpose for which it is intended.

This amendment shall become effective May 10, 1944.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 4th day of May 1944.

JAMES F. BROWNLEE,
Acting Administrator.

[F. R. Doc. 44-6328; Filed, May 4, 1944;
11:54 a. m.]

PART 1364—FRESH, CURED AND CANNED MEAT AND FISH

[RMPR 169.¹ Amdt. 41]

BEEF AND VEAL CARCASSES AND WHOLESALE CUTS

A statement of the considerations involved in the issuance of this amendment has been issued simultaneously herewith and filed with the Division of the Federal Register.*

Section 1364.405 (g) is added to read as follows:

(g) *Wholesalers' adjustments affecting frozen boneless beef (Army specifications).* Upon a unanimous finding by the Quartermaster General, War Food Administrator and Price Administrator (1) that the facilities of any wholesaler are essential for the purpose of increasing the total supply of frozen boneless beef (Army specifications), and (2) that the production of frozen boneless beef by such wholesaler will not be accompanied by or cause a decrease in the production of frozen boneless beef (Army specifications) by any other person, and will not therefore increase the cost of prosecuting the war without achieving a greater essential supply; and

Upon a finding by the Price Administrator that the established price of frozen boneless beef impedes or will impede the wholesaler's production of this meat item for war procurement agencies because of increased carcass beef costs due to the payment of transportation and/or local delivery allowances provided in § 1364.454, carcass beef shrinkage occurring during transit of dressed carcasses from the point of origin to the wholesaler's place of business or other handling costs incurred during such transit of dressed carcasses, the Price Administrator may by order adjust the maximum price to offset such added beef carcass costs.

Each wholesaler seeking an adjustment under this paragraph (g) shall file five copies of an application showing: (1) The name and address of each person

¹ 8 F.R. 4057, 4787, 4844, 5170, 5478, 6056, 6427, 7109, 6945, 7199, 7200, 8011, 8677, 8755, 9066, 9300, 9995, 10363, 10671, 11645.

who is supplying or will supply the applicant with beef carcasses for the purpose of producing frozen boneless beef (Army specifications) for a war procurement agency and the quantity of beef carcasses supplied or to be supplied by such person to the applicant; (ii) on the basis of actual tests made on a lot of no less than 50 dressed beef carcasses (or 100 sides), a detailed test-cost analysis by grades showing the yield, each item of direct cost, indirect cost, overhead and general administrative costs involved in producing frozen boneless beef (Army specifications); (iii) the weight of dressed beef carcasses by grades (used in the test in (ii)) when shipped from each supplier referred to in (i) above, and the weight of such dressed beef carcasses when received at the applicant's place of business; (iv) the transportation and/or local delivery charges which will be incurred in making the purchases enumerated in (i) above and such other handling costs as will be incurred; and (v) the amount of adjustment in frozen boneless beef (Army specifications) prices which will be necessary to offset the increased costs of dressed carcasses due to transportation and/or local delivery payments, shrinkage and/or handling costs.

The Price Administrator shall furnish the Quartermaster General and War Food Administrator each with a copy of the application filed hereunder. The findings required to be made unanimously by the Quartermaster General, War Food Administrator and Price Administrator may be based on such other information as any of them may submit. The Price Administrator may issue temporary or indefinite orders hereunder and may include in the orders such provisions as he deems necessary to effectuate the purposes of this paragraph.

This amendment shall become effective May 4, 1944.

NOTE: The record-keeping and reporting requirements of this amendment have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(56 Stat. 23, 756; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 4th day of May 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44-6364; Filed, May 4, 1944;
11:51 a. m.]

PART 1418—TERRITORIES AND POSSESSIONS [MPR 373,¹ Amdt. 53]

FEED FOR ANIMALS AND POULTRY IN HAWAII

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith,

¹ 8 F.R. 5388, 6359, 6849, 7200, 7457, 8064, 8550, 10270, 10666, 10984, 11247, 11437, 11849, 12299, 12703, 13023, 13342, 13500, 14139, 14305, 14688, 15253, 15369, 15851, 15852, 15862, 16866, 16997, 17201; 9 F.R. 173, 393.

has been filed with the Division of the Federal Register.*

Section 65 is added to read as follows:

Sec. 65. Maximum prices for sales of feeds for animals and poultry—(a) What this section covers. This section establishes maximum prices for sales and deliveries of all feeds for animals and poultry, including sales by manufacturers, wholesalers and retailers.

(b) **Definitions.** When used in this section:

(1) "Feed" means all feed used for the purpose of feeding animals and poultry.

(2) "Straight item" means all unmixed ingredients or single items used for feeding animals or poultry.

(3) "Mixed feeds" for animals and poultry includes "mixed feed" and "mineral mixed feed" as hereinafter defined.

(4) "Mixed feed" is a mixture or blend of more than one feed ingredient for the purpose of feeding animals and poultry, except the following commodities:

(i) Mixed feeds for any house pet birds.

(ii) Cat and dog food for which a ceiling price has been determined under the provisions of sections 40 and 41a of Maximum Price Regulation No. 373, which cat and dog foods shall be and remain subject to said provisions; and

(iii) All other cat and dog foods for which a maximum price has been determined under the provisions of the General Maximum Price Regulation for Hawaii,² which cat and dog foods shall remain subject to such provisions.

(5) "Pelleted mixed feed" is a mixed feed further processed into pellets.

(6) "Mineral mixed feed" is a mixed feed at least 60 percent of which consists of a mixture of two or more chemicals or minerals, with or without mixture with other ingredients, and customarily regarded as dietary factors in the feeding of animals and poultry.

(7) "Manufacturer" is one who produces and sells a mixed feed by grinding, mixing or blending, whether by stationary or portable equipment.

(8) "Custom mixer" is one who furnishes to a consumer for a recompense the services of producing mixed feed; either the custom mixer or the consumer or both may furnish the ingredients for the mixed feeds.

(9) A "private brand dealer" is one who resells mixed feed or mineral mixed feed ordered and bought by him from a manufacturer who produced and packed the same in containers bearing the dealer's private brand.

(10) A "wholesaler" is one who buys any feed item and resells the same to:

(i) A retailer, or

(ii) A consumer on a f. o. b. warehouse basis in lots of five tons or over, or on a f. o. b. destination dock basis.

(11) A "wholesale outlet" is a department, branch or unit of a concern or an affiliated group of concerns or organizations performing like functions as a

*Copies may be obtained from the Office of Price Administration.

² 8 F.R. 5307, 6362.

wholesaler, and which concern or affiliated group of concerns or organizations also handles commodities subject to this section at other levels of distribution: *Provided*, That said wholesale outlet must be a place of business separate from any producing plant of such concern, affiliated group of concerns or organizations.

(12) A "retailer" is one who buys a feed and resells it to consumers.

(13) A "retail outlet" is a department, branch or unit of a concern or an affiliated group of concerns or organizations performing like functions as a retailer and which concern or affiliated group of concerns or organizations also handles commodities subject to this section at other levels of distribution: *Provided*, That said retail outlet must be a place of business separate from any producing plant of such concern or affiliated group of concerns or organizations.

(14) "Reasonable market value" shall have the meaning ascribed thereto by law. It is also known in the trade as replacement value.

(15) "L. c. l. quantities" or less than carload lots or quantities, refers to sales or deliveries of quantities less than the stated capacity of any railroad car, whether the shipment is by rail, motor vehicle, water or other means.

(16) A "billing charge" is a charge or entry as a part of the bookkeeping system of debits and credits made between different departments, branches, or units of one concern or between different units of an affiliated group of concerns or organizations for services rendered or commodities produced by one and furnished or delivered by another.

(17) "F. o. b destination dock basis" means the invoice cost of the feed plus an amount equal to the charges for ocean freight, war risk and marine insurance actually incurred not to exceed the rates charged by the War Shipping Administration and Territorial tolls and tonnage taxes shown on the bill of lading.

(18) "FSCC" refers to The Federal Surplus Commodities Corporation.

(19) "Sub-order FSCC basis" refers to a sale made to a purchaser by a seller who has authority to purchase direct from FSCC where the purchaser receives a sub-order from the seller and takes delivery himself directly either from a FSCC warehouse or directly from the dock.

(c) **Maximum prices for manufacturers.** Every manufacturer of mixed feeds shall determine his maximum price per 100 pounds seller's container for l. c. l. quantities for sales of each mixed feed item as follows:

(1) He shall first compute his cost per 100-pound container of the commodity to be priced as follows:

(i) He shall include the cost of every ingredient which is subject to maximum prices prescribed by the Office of Price Administration at the actual cost thereof to him as if purchased at the time of the calculation not exceeding the maximum price thereon to him at said time, for the quantities normally purchased by him.

(ii) He shall include the cost of every other ingredient used which is not sub-

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ject to the maximum prices prescribed by the Office of Price Administration at the reasonable market value thereof to him when purchased, for the quantities normally purchased by him: *Provided*, That said reasonable market value shall be such value at his producing plant.

(iii) He shall include either the cost of one 100-pound new bag or container for the commodity to be priced at the maximum price thereof to him at the time of the bag or container purchase, where he furnishes such a bag or container; or, in such cases where second hand bags furnished by the seller are used, he may add the reasonable market value of the bags used (not exceeding any maximum prices established thereon by Revised Maximum Price Regulation 55¹—Second-hand Bags).

(iv) In the case of feeds purchased from the FSCC stocks, he may include an allowance for shrinkage actually incurred on such purchases, not to exceed two (2) per cent.

(2) Then, for sales to wholesalers and for deliveries to his wholesale outlets, he shall add his cost per 100-pound container and the applicable dollar and cent markup set forth below:

Class 1 (except scratch feeds) ¹	\$0.38
Class 2 ¹	.50
Class 3 ¹	.60
Scratch feeds (containing cracked corn purchased by manufacturer)	.30
Scratch feeds (containing whole corn cracked by manufacturer)	.38

¹ Classifications of mixed feeds are set forth in paragraph (e), Table 1.

The resulting price is the maximum price and billing charge at his producing plant. It shall also be known as the manufacturer's list price for sales to wholesalers and for deliveries to his wholesale outlets.

(3) Then, for sales to retailers and for deliveries to his retail outlets, he shall add his cost per 100-pound container and the applicable dollar and cent markup set forth below:

Class 1 (except scratch feeds) ¹	\$0.53
Class 2 ¹	.65
Class 3 ¹	.75
Scratch feeds (containing cracked corn purchased by manufacturer)	.35
Scratch feeds (containing whole corn cracked by manufacturer)	.43

¹ Classifications of mixed feeds are set forth in paragraph (e), Table 6.

The resulting price is the maximum price and billing charge at his producing plant. It shall also be known as the manufacturer's list price for sales to retailers and for deliveries to his retail outlets.

(4) Then, for sales to consumers, he shall add his cost per 100-pound container and the applicable dollar and cent markup set forth below:

Class 1 (except scratch feeds) ¹	\$0.78
Class 2 ¹	.90
Class 3 ¹	1.00
Scratch feeds (containing cracked corn purchased by manufacturer)	.60
Scratch feeds (containing whole corn cracked by manufacturer)	.68

¹ Classifications of mixed feeds are set forth in paragraph (e), Table 1.

The resulting price is the maximum price f. o. b. his producing plant.

(5) For sales in seller's containers of less than 100 pounds, the maximum price shall be the applicable maximum price less any container allowance permitted under paragraph (c) (1) (iii) above, plus the appropriate differential at the rate per ton set forth in the following schedule:

Size of container	Paper bags	Cotton bags	Other container (rate per ton)	Bales
Up to and including 5 pounds	\$6.00	\$6.00		
Over 5 pounds and up to and including 10 pounds	5.00	5.00		
Over 10 pounds and up to and including 25 pounds	1.50	2.50	Reasonable market value of containers at time of sale plus 50¢ per ton.	Reasonable market value of bales at time of sale over opposite differential for small size packages.
Over 25 pounds and up to and including 50 pounds	1.00	1.25		

(d) *Maximum prices for wholesalers and wholesale outlets of a mixed feed manufacturer.* Every wholesaler and wholesale outlet of a mixed feed manufacturer shall determine his maximum price and billing charge as follows:

(1) For sales of feed per 100-pound container to a retailer store and a retail outlet of a mixed feed manufacturer.

(i) On an f. o. b. destination dock basis or sub-order FSCC basis.

The maximum price shall be the sum of:

(a) The actual cost to the seller determined either by the list price of the mixed feed manufacturer or the current FSCC feed price list, and

(b) \$4.00 per ton or 20¢ per 100-pound container less \$1.00 per ton or 5¢ per

price shall be the applicable maximum price determined under paragraph (d) (1) (i) above, plus 1 1/4%.

(ii) On a f. o. b. seller's warehouse basis, in lots of five tons or more of any feed item: The maximum price shall be the applicable maximum price determined under paragraph (d) (1) (ii) above, plus 1 1/4%.

(3) For sales of feed in containers of 50 pounds or less the maximum price shall be the applicable maximum price determined under paragraph (d) (1) or (2) above, plus \$1.50 per ton.

(e) *Maximum prices for retailers and retail outlets of a mixed feed manufacturer.* Every retailer and retail outlet of a mixed feed manufacturer shall determine his maximum price for sales of all feeds including mixed feeds as follows:

(1) For sales of all feed items purchased by the retailer from the FSCC, the maximum price shall be the sum of the following:

(i) His FSCC invoice cost.

(ii) All transportation costs actually incurred by the retailer for transportation of the item being priced to his place of business, and

(iii) A maximum markup of \$10.00 per ton.

(2) For sales of all other feed items the maximum price shall be the sum of the following:

(i) Either the list price set forth in paragraph (c) (3) above, or the supplier's maximum price set forth in paragraph (d) (1) above, whichever is applicable.

(ii) All transportation costs actually incurred by the retailer for transportation of the item being priced to his place of business, and

(iii) The applicable dollar and cent markup listed in the schedule of the retail markups set forth below.

SCHEDULE OF MARKETS

(a) For sales per 100-pound container.

TABLE I

Commodity	Maximum markup	
	Per ton	Per 100 pound container
Class I—All straight items, and the following mixed feed, all dairy and cattle feeds except calf feeds, all horse and mule feeds, all poultry, duck and turkey feeds except as set forth below.	\$7.00	\$0.35
Class II—All rabbit feeds, all pig and hog feeds, all growing, broiler and laying mashes and pellets for poultry, ducks and turkeys, except (1) flushing mashes, concentrates, and supplements for poultry, ducks and turkeys used for further mixing or feeding with more than 50% of grain and (2) starting mashes and pellets for poultry, ducks and turkeys.	8.40	.42
Class III—All pigeon and squab feeds, all mineral mixed feeds, all calf feeds, all poultry, duck and turkey mashes and pellets designed for starting poultry, ducks and turkeys, and flushing mashes, concentrates and supplements for poultry, ducks and turkeys used for further mixing or feeding with more than 50% of grain.	11.40	.57

¹ 7 F.R. 10104, 10554, 10585; 8 F.R. 12404.

TABLE 2—MIXED FEED CLASSIFICATION¹

Commodity	Class
For chickens, turkeys, ducks and geese:	
Chick starter mash	3
All mash chick starter	3
Baby chick mash	3
Baby chick ration (mash)	3
Baby chick food mash	3
Starting feed (mash)	3
All mash chick mash	3
Developing mash	2
Growing mash	2
Egg-producing mash	2
Laying mash	2
Breeder mash	2
Laxative mash (specialty)	3
Egg mash	2
All mash egg food	2
All mash laying food	2
Hen mash	2
All mash growing pullet food	2
All mash growing pullet mash	2
Flushing mash (specialty)	3
Flush tonic mash (specialty)	2
Fattening mash	2
Scratch feed (hen)	1
Scratch feed (pullet and growing)	1
Chick scratch	1
Intermediate grain	1
Developing grains	1
Baby chick grains	1
Pig and hog feeds:	
Pig meal	2
Hog meal	2
Pig and hog feed	2
Calf feeds:	
Calf meal or pellets	3
Calf grower	3
Miscellaneous:	
Dairy feed	1
Horse feed	1
Mule feed	1
Sheep feed	2
Goat feed	2
Pigeon feed	2
All rabbit feeds—mash and pellets	2
All mineral mixed feed	3
Pheasant feeds	3
All purpose or combination mash	2
All straight items	1

¹ Table shows individual classification of feeds in Table 1.

(b) For sales in containers of 50 pounds or less.

Size of container:	Maximum markup per bag
Up to and including 5 pounds	\$0.06
Over 5 pounds and up to and including 10 pounds	.10
Over 10 pounds and up to and including 25 pounds	.20
Over 25 pounds and up to and including 50 pounds	.30

(f) Maximum prices and base period reports for persons doing both wholesale and retail business—(1) Maximum prices. The maximum prices for any person doing both a wholesale and a retail business shall be determined as follows:

(i) For sales as a wholesaler, his maximum price shall be the applicable maximum price set forth in paragraph (d) hereof.

(ii) For sales as a retailer of the percentage of tonnage volume of sales as retailer listed in his base period report, his maximum price shall be the applicable maximum prices set forth in paragraph (d) hereof, plus the appropriate markups set forth below:

	Per ton
Class 1 markup ¹	\$3.40
Class 2 markup ¹	5.40
Class 3 markup ¹	7.40

¹ Classifications of mixed feed are set forth in paragraph (e), Table 1.

(iii) For sales as a retailer of any increase in retail sales over the percentage of tonnage volume of sales as a retailer listed in his base period report, his maximum price shall be his invoice cost plus the maximum markup set forth in paragraph (e) (2) above.

(2) Base period reports. Any person doing both a wholesale and a retail business shall report to the Office of Price Administration, Iolani Palace, Honolulu, 2, T. H., within two weeks after the effective date of this section, his tonnage volume of sales as a wholesaler and his tonnage volume of sales as a retailer during the immediately preceding week, month, or four months period, whichever he may, at the time of his first calculation of prices, select.

(g) Delivery charges. Any seller may add to the maximum prices established by this section the actual transportation costs incurred by him for deliveries from his place of business to the buyer's receiving point, provided such deliveries are made by the usual route and method of transportation.

(h) Inability to determine maximum prices. If you are unable to determine the maximum price for any feed item covered by this regulation, you shall apply to the Office of Price Administration, Iolani Palace, Honolulu, 2, T. H., for establishment of a maximum price.

(i) Rounding of maximum prices. (1) In ascertaining maximum prices hereunder on a per ton basis round the figure obtained as the maximum price to the nearest even 20 cents.

(2) Notwithstanding the provisions of section 7 of this Maximum Price Regulation 373, in ascertaining maximum prices hereunder on a one 100-pound container basis round the figure obtained as the maximum price to the nearest one cent.

(j) Dealings between persons of the same class. No person shall sell feeds including mixed feed or mineral mixed feed bought from a person of the same class to which he belongs at higher than the maximum price at which he may buy the same from such person hereunder.

(k) Prices to be marked and posted. Notwithstanding the provisions of section 10 of this Maximum Price Regulation 373, every wholesaler or retailer shall post in his place of business a copy of his maximum prices as computed hereunder.

(l) Records and reports. Notwithstanding the provisions of section 10 of this Maximum Price Regulation 373,

(1) Every manufacturer shall keep for so long as the Emergency Price Control Act of 1942, as amended, shall remain in effect, a complete record of each sale or purchase subject hereto showing the date thereof, the names and addresses of the buyer and seller, the price contracted for, paid or received, and the quantity of the feeds for animals and poultry sold or purchased.

(2) Every wholesaler and retailer shall keep for so long as the Emergency Price Control Act of 1942, as amended, shall remain in effect, like records of his sales and purchases as he kept during the year 1942.

(3) All sales invoices shall, in addition to the above requirements, specify as a separate item such charges as may be allowed for transportation or delivery.

This amendment shall become effective as of April 1, 1944.

NOTE: The reporting and record-keeping provisions of this amendment have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871, E.O. 9328, 8 F.R. 4681)

Issued this 4th day of May 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44-6371; Filed, May 4, 1944;
11:53 a. m.]

PART 1418—TERRITORIES AND POSSESSIONS

[IMR 373; Amdt. 55]

HAM AND APPLES IN HAWAII

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Maximum Price Regulation No. 373 is amended in the following respects:

1. Section 19a (e) is hereby revoked.
2. Section 19b (h) Table H is amended by changing the price for the item "Ham hocks (less than 4 pounds)" under the category "Ham" from 30¢ per pound to 35¢ per pound.
3. The table following section 21 (d) (1) is amended by changing the prices of one item to read as follows:

	Wholesale maximum price	Retail maximum price
Apples: Winesaps	\$5.40 per box	\$0.17 per lb.

This amendment shall become effective as follows:

- (a) As to section 19a, as of March 1, 1944.
- (b) As to section 19b, as of April 11, 1944.
- (c) As to section 21, as of April 17, 1944.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 4th day of May 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44-6372; Filed, May 4, 1944;
11:52 a. m.]

*Copies may be obtained from the Office of Price Administration.

¹ 8 F.R. 5388, 6359, 6849, 7200, 7457, 8064, 8550, 10270, 10666, 10984, 11247, 11437, 11849, 12299, 12703, 13023, 13342, 13500, 14139, 14305, 14688, 15253, 15851, 15852, 15862, 16866, 16997, 17201; 9 F.R. 173, 393.

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PART 1439—UNPROCESSED AGRICULTURAL COMMODITIES

[MPR 426,¹ Amdt. 26]

PEPPERS AND CUCUMBERS; SALES EXCEPT AT RETAIL

A statement of the considerations involved in the issuance of this amendment has been issued and filed with the Division of the Federal Register.*

Maximum Price Regulation No. 426 is amended in the following respects:

1. Table 6 of Appendix H, Article III, section 15 is amended to read as follows:

TABLE 6—MAXIMUM PRICES FOR SWEET PEPPERS

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Item No.	Type, variety, style of pack, etc.	Unit	Season	Maximum prices f. o. b. shipping points in Florida and Arizona	Maximum prices for sales delivered to any wholesale receiving point in any quantity	Maximum prices for sales by certain persons in less than carlots or less than trucklots delivered to the premises of any retail store, Government procurement agency or institutional buyer. ²
1.....	Sweet peppers in 1½ bushel crates with a net weight of 37 pounds or more.	1½ bushel crates	Jan. 1-May 31 June 1-July 15	\$4.80 \$3.65	(Col. 5 price plus freight (including 3% transportation tax) from Pompano, Florida plus 11 cents for protective services ³ for all markets east of and including Chicago, Illinois; and Nogales, Arizona, plus 15 cents for protective services ⁴ for all markets west of Chicago, Ill.)	Col. 6 price plus 90 cents.
3.....	Sweet peppers in bushel containers with a net weight of 25 pounds or more.	Bushel	Jan. 1-May 31 June 1-July 15	\$3.20 \$2.45	(Col. 5 price plus freight (including 3% transportation tax) plus 8 cents for protective services ⁵ for all markets east of and including Chicago, Illinois; and Nogales, Arizona plus 10 cents for protective services ⁶ for all markets west of Chicago, Illinois.)	Col. 6 price plus 75 cents.
5.....	Sweet peppers in 1½ bushel crates with a net weight of less than 37 pounds and in bushel containers with a net weight of less than 25 pounds and in all other containers. ²	Pound	Jan. 1-May 31 June 1-July 15	11.4 cents per lb. 9.8 cents per lb.	Maximum price above (item 1) divided by 42. Maximum price above (item 2) divided by 42.	Col. 6 price plus 2½ cents per pound. Col. 6 price plus 2½ cents per pound.

* For all wholesale receiving points in the States of Florida and Arizona, no allowance shall be added for protective services.

² The maximum price for peppers sold in bulk (loose without containers) shall be 1 cent per pound less than the appropriate price per pound listed in column 5, 6 or 7 above.

³ For the sellers covered by column 7, see general provisions of this appendix.

2. Table 7 of Appendix H, Article III, section 15 is amended in the following respects:

a. Items 1, 2, 3 and 4 in column 6 are amended to read as follows:

Col. 5 price plus freight (including 3% transportation tax) from Wachula, Florida, plus 10 cents for protective services¹ for all markets east of and including Chicago, Illinois; and from Chula Vista, California, plus 10 cents for protective services for all markets west of Chicago, Illinois.

b. Items 5, 6, 7 and 8 in column 6 are amended to read as follows:

Col. 5 price plus freight (including 3% transportation tax) from Wachula, Florida, plus 8 cents for protective services¹ for all markets east of and including Chicago, Illinois; and from Chula Vista, California, plus 8 cents for protective services for all markets west of Chicago, Illinois.

c. Items 13, 14, 15 and 16 in column 6 are amended to read as follows:

Col. 5 price plus express (including 3% transportation tax) from Davenport, Iowa.⁵

d. Items 13, 14, 15 and 16 in column 7 of Table 7 in paragraph (b) are amended to read as follows:

Col. 6 price plus 2½ cents per pound.

3. Items 2 and 4 of the Table in paragraph (c) of Appendix H, Article III, section 15 are amended to read as follows:

TABLE OF MAXIMUM MARKUPS FOR DISTRIBUTIVE SERVICES TO BE ADDED TO MAXIMUM DELIVERED PRICES

(See column 6 of tables in paragraph (b))

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10
Item No.	Commodity	Unit ³	Sales by a grower or a country shipper ¹						
			Through a broker, shipper's sales agent or commission merchant in carlots or trucklots or through broker, shipper's sales agent, or terminal auction in less-than-carlot or less-than-trucklot	Through a commission merchant in less than carlots or less than trucklots	Sales by anyone, other than a grower or country shipper, who has purchased a carlot or trucklot, and sells such a carlot or trucklot unbroken	Sales by carlot receivers in less-than-carlots-or-less-than-truck-lots. (For sales by carlot receivers through terminal auction the markups named in Col. 4 shall be applied)	Sales by secondary jobbers in any quantity delivered to the premises of the purchaser	Sales by a service wholesaler delivered to the premises of any retail store, Government procurement agency, or institutional buyer, within the free delivery zone ²	
2.....	Peppers	1½ bu. crate Bushel (Other containers (or in bulk))	\$0.14 \$0.11 3½¢ per lb.	\$0.50 \$0.40 1½¢ per lb.	\$0.14 \$0.11 3½¢ per lb.	\$0.50 \$0.40 1½¢ per lb.	\$0.90 \$0.75 2½¢ per lb.	\$0.90 \$0.75 2½¢ per lb.	3½¢ per lb.
4.....	Cucumbers	Other than greenhouse, bushel Other containers (or in bulk) Greenhouse—All containers (or in bulk)	\$0.11 3½¢ per lb. 3½¢ per lb.	\$0.40 3½¢ per lb. 3½¢ per lb.	\$0.11 3½¢ per lb. 3½¢ per lb.	\$0.40 3½¢ per lb. 3½¢ per lb.	\$0.75 15½¢ per lb. 2½¢ per lb.	\$0.75 15½¢ per lb. 2½¢ per lb.	2½¢ per lb. 2½¢ per lb.

*Copies may be obtained from the Office of Price Administration.

¹ 8 F.R. 16409, 16294, 16519, 16423, 17372; 9 F.R. 790, 902, 1581, 2008, 2023, 2091, 2493, 4030, 4086, 4088, 4434.

This amendment shall become effective May 4, 1944.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 4th day of May 1944.

JAMES F. BROWNLEE,
Acting Administrator.

Approved: April 29, 1944.

GROVER B. HILL,
First Assistant War Food Adminis-
trator.

[F. R. Doc. 44-6361; Filed, May 4, 1944;
11:53 a. m.]

PART 1439—UNPROCESSED AGRICULTURAL
COMMODITIES

[MPR 426, Amdt. 27]

APPLES; SALES EXCEPT AT RETAIL

A statement of the considerations involved in the issuance of this amendment has been issued and filed with the Division of the Federal Register.*

In Appendix G of section 15 paragraph (b) (6) is amended by deleting the period at the end of subdivision (ii) and adding the word "plus" and by adding a new subdivision (iii) to read as follows:

(iii) For such apples which have been placed in storage by persons other than growers or country shippers on or before April 25, 1944, the appropriate amount per Northwest apple box containing not less than 40 pounds of apples, as listed below for the month in which the sale is made:

Month	Per box cents
May, 1944-----	15
June, 1944-----	20
July, 1944-----	25
August, 1944-----	30

This amendment shall become effective May 4, 1944.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 4th day of May 1944.

JAMES F. BROWNLEE,
Acting Administrator.

Approved: April 29, 1944.

GROVER B. HILL,
First Assistant War Food Adminis-
trator.

[F. R. Doc. 44-6362; Filed, May 4, 1944;
11:51 a. m.]

*Copies may be obtained from the Office of Price Administration.

18 F.R. 16409, 16294, 16519, 16423, 17372;
9 F.R. 790, 902, 1581, 2008, 2023, 2091, 2493,
4030, 4086, 4088, 4434.

TITLE 31—MONEY AND FINANCE:
TREASURY

Chapter II—Fiscal Service

Subchapter B—Bureau of the Public Debt

[1944 Dept. Circ. 530, (5th Rev.), Amdt. 5]

PART 315—REGULATIONS GOVERNING
UNITED STATES SAVINGS BONDS

PAYMENT OR REISSUE

MAY 1, 1944.

Section 315.32 of Department Circular No. 530, Fifth Revision, dated June 1, 1942 (7 F.R. 5158), as amended by the Cumulative Amendment dated June 17, 1943 (8 F.R. 8744), is hereby further amended to read as follows:

§ 315.32 *Payment or reissue.* A savings bond registered in the names of two persons as coowners in the form "John A. Jones or Mrs. Mary C. Jones", will be paid or reissued as follows:

(a) *Payment during the lives of both coowners.* During the lives of both coowners the bond will be paid to either coowner upon his separate request without requiring the signature of the other coowner; and upon payment to either coowner the other person shall cease to have any interest in the bond. The bond will also be paid to both coowners upon their joint request, in which case payment will be made by check drawn to the order of both coowners in the form "John A. Jones and Mrs. Mary C. Jones", and the check must be endorsed by both payees.

(b) *Reissue during the lives of both coowners.* If one of the coowners is unmarried at the time of issue of the bond and subsequently marries, the bond may be reissued upon the request of both coowners to substitute the husband and wife as coowners. Such request should be on a form provided for that purpose by any Federal Reserve Bank or Branch or by the Treasury Department, Division of Loans and Currency, Merchandise Mart, Chicago 54, Illinois. No other reissue will be permitted in any form during the lives of both coowners except as specifically provided in these regulations.

(c) *Payment or reissue after the death of one coowner.* If either coowner dies without having presented and surrendered the bond for payment to a Federal Reserve Bank or the Treasury Department, the surviving coowner will be recognized as the sole and absolute owner of the bond, and payment will be made only to him: *Provided, however,* That if a coowner dies after he has properly executed the request for payment and after the bond has actually been received by a Federal Reserve Bank or the Treasury Department, payment of the bond, or check if one has been issued, will be made to his estate (see Subpart P hereof). Upon proof of the death of one coowner and appropriate request by the surviving coowner (unless a nonresident alien, in which case see § 315.3) the bond will be

reissued in the name of such survivor alone, or in his name with another individual as coowner, or in his name payable on death to a designated beneficiary.

(d) *Payment or reissue on death of both coowners in common disaster.* If both coowners die in a common disaster under such conditions that it cannot be established, either by presumption of law or otherwise, which coowner died first, the bond will be considered as belonging to the estates of both coowners, and payment or reissue will be made accordingly.

(e) *Payment or reissue after the death of the surviving coowner.* If a surviving coowner who became solely entitled to the bond under the provisions of paragraph (c) of this section dies without having submitted the bond for payment or reissue, the bond will be paid or reissued as though it were registered in the name of such last deceased coowner alone. In this case proof of the death of both coowners and of the order in which they died will be required.

D. W. BELL,
Acting Secretary of the Treasury.

[F. R. Doc. 44-6359; Filed, May 4, 1944;
11:30 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Bureau of Mines.

RICHARD GRIBBLE

ORDER REVOKING LICENSES, DIRECTING SUR-
RENDER OF LICENSES AND REQUIRING REC-
ORDS TO BE FURNISHED

In the matter of licensee Richard Gribble, Junction City, Trinity County, California. Proceedings for revocation of licenses.

Based upon the records in this matter, including your answer, I make the following findings of fact:

1. On March 29, 1944, a specification of charges against you setting forth violations of the Federal Explosives Act (55 Stat. 863), as amended, and the regulations pursuant thereto, of which you were accused, was mailed to you giving you notice to mail an answer within 15 days from March 29, 1944, answering the charges against you and requesting an oral hearing if you wished.

2. More than 25 days have elapsed since March 29, 1944. The length of time required for mail to be delivered to the Bureau of Mines, Washington, D.C., from Junction City, California, does not exceed eight days. The only communication received from you is your answer dated April 13, 1944. You have not requested an oral hearing.

3. All of the accusations against you which are set out in the specification of charges are true.

Now, therefore, by virtue of the authority vested in me by the Federal Explor-

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sives Act and the regulations thereunder, I hereby order:

1. That all licenses issued to you under the Federal Explosives Act be and they are hereby revoked as of midnight, May 20, 1944.

2. That prior to midnight, May 20, 1944, you shall sell or otherwise dispose of, to properly licensed persons, or destroy, all explosives and ingredients of explosives owned or possessed by you, or consigned to you, or which are in your custody.

3. That after having sold or otherwise disposed of all of the explosives and ingredients of explosives as required by paragraph 2 of this order, you shall, prior to midnight, May 20, 1944, deliver or mail to R. B. Maurer, Engineer in Charge, United States Bureau of Mines, 422 Acheson Building, Berkeley 4, California, a sworn statement of your transactions in and destructions of explosives and ingredients of explosives, beginning with the date of this order and ending with the final sale or other disposition or with the final destruction of the explosives and ingredients of explosives as required above. The statement shall set forth the amount of each kind of explosives and ingredients of explosives which you had on hand at each location at the opening of business on the date of this order, the amount of each kind acquired by you that day and each day thereafter, the dates on which acquired, the names and addresses of the persons from whom acquired, the amount of each kind sold or otherwise disposed of by you, the dates on which sold or otherwise disposed of, the names and addresses and the numbers and dates of Federal explosives licenses of the persons to whom sold or otherwise disposed of, the amount of each kind destroyed by you, the dates on which destroyed and the places where destroyed.

4. That prior to midnight, May 20, 1944, you shall surrender all licenses issued to you under the Federal Explosives Act and all copies thereof by mailing or delivering them to R. B. Maurer, Engineer in Charge, United States Bureau of Mines, 422 Acheson Building, Berkeley 4, California.

Failure to comply with any of the provisions of this order will constitute a violation of the Federal Explosives Act punishable by a fine of not more than \$5,000 or by imprisonment for not more than one year, or by both such fine and imprisonment.

This order shall be published in the FEDERAL REGISTER.

Dated at Washington, D. C., this 29th day of April 1944.

R. R. SAYRES,
Director.

[F. R. Doc. 44-6336; Filed, May 4, 1944;
10:12 a. m.]

DEPARTMENT OF AGRICULTURE.

Rural Electrification Administration.

[A. O. 821]

ALLOCATION OF FUNDS FOR LOANS

APRIL 24, 1944.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	Amount
Illinois 4082C2 McDonough	\$50,000
Indiana 4009C3 Marshall	30,000
Indiana 4027C2 Decatur	20,000
Indiana 4033C3 Hendricks	25,000
Iowa 4-2005D2 Carroll	65,000
Iowa 4-2073B2 Adair	75,000
Iowa 4-2074C3 Allamakee	65,000
Louisiana 4008A2 Terrebonne	50,000
Michigan 4028F3 Presque Isle	40,000
Michigan 4045D3 Cass	60,000
Mississippi 4028F4 Hancock	50,000
Mississippi 4036E3 Marion	60,000
Missouri 4-2023C1 Lewis	150,000
Missouri 4-2028C4 Barton	20,000
Nebraska 4059B2 Butler District Public	50,000

Project designation:	Amount
Nebraska 4076E3 Southern Nebraska District Public	40,000
Oklahoma 4027C1 Bryan	50,000
South Carolina 4025B3 Berkeley	40,000
South Carolina 4034A2 Newberry	25,000
Texas 4056E3 Lubbock	40,000
Texas 4070C2 Hamilton	60,000
Texas 4087D1 Karnes	40,000
Texas 4125B1 Jasper	50,000
Virginia 4002D2 Craig	15,000
Washington 4030B4 Stevens	35,000
Wisconsin 4047C2 Jackson	40,000

HARRY SLATTERY,
Administrator.

[F. R. Doc. 44-6356; Filed, May 4, 1944;
11:19 a. m.]

OFFICE OF PRICE ADMINISTRATION.

[Rev. SR 14, Order 1]

HOUSE OF SHOEMAKER, INC.

APPROVAL OF MAXIMUM PRICES

Order No. 1 under section 6.32 (g) of Revised Supplementary Regulation No. 14 to the General Maximum Price Regulation. Commodities and services. Approval of maximum prices for sales of Shoemaker hand-hooked cotton rugs.

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register and pursuant to the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Orders No. 9250 and 9328, *It is ordered:*

(a) The House of Shoemaker, Inc., 295 Fifth Avenue, New York City, may sell to retail dealers and deliver its line of hand-hooked matching cotton rugs at maximum prices no higher than those set forth below. These maximum prices are the maximum net prices to be paid by the retail dealer, f. o. b. New York,

less 4% 10 days, 60 days extra, net 70 days.

	Maximum prices to retailers		
	Oval	Oblong	Circle
Shoemaker matching rugs:			
22" x 36"	\$3.11	\$3.42	
24" x 45"	4.22	4.69	
24" x 48"	4.55	4.96	
27" x 50"	5.50	5.81	
30" x 54"	6.37	7.03	
36" x 36"			\$5.42
36" x 60"	8.51	9.38	
40" x 40"			6.70
48" x 48"			9.65
48" x 72"	13.00	14.04	
Shoemaker Motto rugs:			
24" x 36"	3.00	3.30	

(b) Any person may sell at retail and deliver Shoemaker hand-hooked cotton rugs at maximum prices no higher than those set forth below. These prices are the maximum net prices to be paid by the consumer and include all services furnished by the seller.

	Maximum prices to consumers		
	Oval	Oblong	Circle
Shoemaker matching rugs:			
22" x 36"	\$5.15	\$5.65	
24" x 45"	7.00	7.80	
24" x 48"	7.55	8.23	
27" x 50"	9.15	9.65	
30" x 54"	10.57	11.67	
36" x 36"			\$9.00
36" x 60"	14.10	15.57	
40" x 40"			11.15
48" x 48"			16.00
48" x 72"	22.60	24.80	
Shoemaker motto rugs	5.00	5.50	

On retail sales West of the Mississippi River, a freight charge may be added as follows: 10¢ for sizes 24" x 48" or smaller; 20¢ for larger sizes up to, but not including 48" x 72", and 35¢ for sizes 48" x 72".

(c) This Order No. 1 supersedes the provisions of paragraphs (a), (e), and (f) of section 6.32 of Revised Supplementary Regulation No. 14 to the General Maximum Price Regulation as it relates to Shoemaker hand-hooked cotton rugs. All other paragraphs of that section remain applicable.

(d) At the time of or prior to the first invoice to each purchaser for resale, the House of Shoemaker, Inc. shall notify the purchaser for resale of the maximum prices and the conditions set by this Order No. 1 for resales by the purchaser. This notice may be given in any convenient form.

(e) This Order No. 1 may be revoked or amended by the Price Administrator at any time.

This Order No. 1 shall become effective on the 3d day of May 1944.

Issued this 2d day of May 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44-6286; Filed, May 2, 1944;
4:20 p. m.]

[Gen. Order 57]

DELEGATION OF AUTHORITY TO SECRETARY OF OFFICE OF PRICE ADMINISTRATION TO AUTHENTICATE COPIES OF RECORDS

Pursuant to the authority conferred upon the Price Administrator by the Emergency Price Control Act of 1942, as amended, and pursuant to the Second War Powers Act of 1942, the following order is prescribed:

The Secretary of the Office of Price Administration is authorized, on behalf of the Administrator and in his name, to authenticate, certify or attest copies of, or entries in, files, documents, records, reports, memoranda and other written material in the control and custody of the Office; or to certify or attest as to the absence or lack thereof.

Issued and effective this 3d day of May 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44-6316; Filed, May 3, 1944;
12:18 p. m.]

[MPR 120, Order 702]

S. J. AZZARA, ET AL.

AUTHORIZATION OF MAXIMUM PRICES AND PRICE CLASSIFICATIONS

Correction

In the table for the Powell Coal Company, in F.R. Doc. 44-5568, appearing on page 4366 of the issue for Saturday, April 22, 1944, the maximum price for rail shipments, Size Group 3, should be "\$3.35."

Regional and District Office Orders.

[Albany Order G-1 Under MPR 426]

FRUITS AND VEGETABLES IN ALBANY, N. Y., DISTRICT

Order No. G-1 under section 8 (a) (7) of Maximum Price Regulation No. 426. Fresh fruits and vegetables for table use, sales except at retail. Amount of freight from basing point to wholesale receiving point allowed for determining maximum prices of certain fruit and vegetable items at points in the Albany District.

For the reasons stated in an opinion issued simultaneously herewith and pursuant to the authority contained in section 8 (a) (7) of Maximum Price Regulation No. 426, this order is hereby issued.

SECTION 1. What this order does. This order establishes the amount of freight from basing point to wholesale receiving point which may be added to the maximum basing point price for the purpose of determining maximum selling prices of carrots, snap beans, spinach, cucumbers (except hot house), eggplant, peas, sweet peppers, lettuce, oranges, grapefruit, lemons and tangerines, at Albany, Troy and Schenectady, N. Y. and at the other wholesale receiving points mentioned in section 3 hereof, together with the markets which they serve.

SEC. 2. Where this order applies. This order applies in the Counties of Albany, Clinton, Columbia, Essex, Franklin, Ful-

ton, Greene, Hamilton, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie, Ulster, Warren and Washington.

SEC. 3. Determination of the amount of freight allowed in establishing maximum selling prices. (a) The amount of freight from basing point to wholesale receiving point which may be added to the maximum basing point price for the purpose of determining maximum selling prices of carrots, snap beans, spinach, cucumbers (except hot house), eggplant, peas, sweet peppers, lettuce, oranges, grapefruit, lemons and tangerines, at Albany, Troy and Schenectady, N. Y., shall be:

Commodity and package	Albany, Troy and Schenectady
Carrots, 1a crate	\$1.34
Carrots, topped, bushel	.82
Snap beans, bushel	.71
Spinach, bushel	.32
Cucumbers (except hot house), bushel	.95
Eggplant, bushel	.75
Eggplant, 1½ bushel	.96
Peas, bushel	.91
Sweet peppers, bushel	.65
Sweet peppers, 1½ bushel	.87
Lettuce, 1a crate	1.44
Oranges, Fla. and Texas, crate or box	.92
Oranges, Calif., crate or box	1.18
Grapefruit, white, Fla. and Texas, crate or box	.90
Grapefruit, white, Calif., crate or box	1.06
Grapefruit, pink, crate or box	1.17
Lemons, all States, crate or box	1.21
Tangerines, all States, crate or box	.95

(b) The amount of freight from basing point to wholesale receiving point which may be added to the maximum basing point price for the purpose of determining maximum selling prices of carrots, snap beans, spinach, cucumbers (except hot house), eggplant, peas, sweet peppers, lettuce, oranges, grapefruit, lemons and tangerines, at the secondary wholesale receiving points hereinabove named, and in the markets which they serve, shall be:

Commodity	Package	Amsterdam	Catskill	Gloversville	Johnstown	Hudson	Saratoga	Granville and Cobleskill	Camdoharle	Glens Falls	Kingston	Lewiston	Plattsburgh and Malone	Saranac Lake
Carrots	LaCrate	\$1.60	\$1.64	\$1.74										
Carrots, topped	Bushel	.98	1.01	1.09										
Snap Beans	Bushel	.82	.84	.89										
Spinach	Bushel	.38	.39	.42										
Cucumbers (except hot house)	Bushel	1.06	1.15	1.24										
Eggplant	Bushel	.87	.89	.95										
Eggplant	1½ bushel	1.13	1.16	1.25										
Peas	Bushel	1.01	1.02	1.07										
Sweet Peppers	1½ bushel	1.02	1.03	1.11										
Sweet Peppers	Bushel	.74	.75	.80										
Lettuce	LA Crate	1.67	1.69	1.82										
Oranges, Fla. and Texas	Crate or box	1.21	1.26	1.41										
Oranges, Calif.	Crate or box	1.44	1.48	1.61										
Grapefruit, white, Fla. and Texas	Crate or box	1.16	1.20	1.34										
Grapefruit, white, Calif.	Crate or box	1.29	1.33	1.44										
Grapefruit, pink	Crate or box	1.43	1.47	1.61										
Lemons, All States	Crate or box	1.47	1.51	1.65										
Tangerines, All States	Crate or box	1.23	1.28	1.42										

(c) The amounts set forth under paragraphs (a) and (b) of this section do not include allowances, if any, for protective and other accessorial services. Allowances for such services are provided in dollars-and-cents and/or are included in the maximum basing point prices in the appropriate appendices of Maximum Price Regulation 426. No allowances for protective and other accessorial services, other than those so established, may be charged or paid under this order.

SEC. 4. Effective date. This order shall become effective 12:01 a. m. on the 28th day of April, 1944.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681; MPR 426, 8 F.R. 16409)

Issued this 25th day of April 1944.

LESTER W. HERZOG,
District Director.

[F. R. Doc. 44-6287; Filed, May 2, 1944;
4:21 p. m.]

[Raleigh, Order G-1 Under MPR 285]

FRESH BANANAS IN RALEIGH, N. C., DISTRICT

Order No. G-1 under Maximum Price Regulation 285. Imported fresh bananas, sales except at retail. Adjustment of certain maximum prices of service wholesalers.

For the reasons set forth in an opinion issued simultaneously herewith and under authority vested in the District Director of the Office of Price Administration, Raleigh, North Carolina by Regional Delegation Order No. 25 issued by the Atlanta Regional Office pursuant to § 1351.1254a of Maximum Price Regulation No. 285, as amended, *It is hereby ordered:*

(a) On and after the effective date of this order, the maximum delivered prices of service wholesalers whose places of business are located in the counties of Alamance, Beaufort, Bertie, Bladen, Brunswick, Camden, Carteret, Caswell, Chatham, Chowan, Columbus, Craven, Cumberland, Currituck, Dare, Duplin, Durham, Edgecombe, Franklin, Gates, Granville, Greene, Halifax, Harnett, Hertford, Hoke, Hyde, Johnston, Jones, Lee, Lenoir, Martin, Moore, Nash, New Hanover, Northampton, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Robeson, Sampson, Scotland, Tyrrell, Vance, Wake, Warren, Washington, Wayne and Wilson, North Carolina, selling the commodities covered by Maximum Price Regulation No. 285, as amended, to retailers, are hereby increased 6¢ per container of less than 40 pounds, gross weight; 12¢ per container of 40 pounds to 60 pounds, gross weight; and 15¢ per container of over 60 pounds, gross weight, over and above the maximum prices established by Maximum Price Regulation No. 285, as amended. These maximum delivered prices shall apply irrespective of the distance involved in making delivery to the purchaser. Less than the maximum delivered prices may always be charged.

(b) If the purchaser elects to take delivery at the service wholesaler's platform there shall be no increase allowed

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over the maximum prices as established by Maximum Price Regulation No. 285, as amended.

This order may be revoked or amended at any time.

This order shall become effective April 17, 1944.

(56 Stat. 23, 765; Pub. Laws 151, 78th Cong.; E.O. 9250, 7 F.R. 7871 and E.O. 9328, 8 F.R. 4681)

Issued this 15th day of April 1944.

THEODORE S. JOHNSON,
District Director.

Approved:

JAMES H. PALMER,
Regional Director,
Office of Distribution,
War Food Administration.

[F. R. Doc. 44-6288; Filed, May 2, 1944;
4:21 p. m.]

by Appendices B, D, H and I of Maximum Price Regulation No. 426.

This order may be revoked or amended at any time.

This order shall become effective April 17, 1944.

(56 Stat. 23, 765; Pub. Laws 151, 78th Cong.; E.O. 9250, 7 F.R. 7871 and E.O. 9328, 8 F.R. 4681)

Issued this 15th day of April 1944.

THEODORE S. JOHNSON,
District Director.

Approved:

JAMES H. PALMER,
Regional Director,
Office of Distribution,
War Food Administration.

[F. R. Doc. 44-6289; Filed, May 2, 1944;
4:20 p. m.]

Lexington Order No. 2-F, Amendment No. 20, filed 3:11 p. m.

Lexington Order No. 3-F, Amendment No. 18, filed 3:10 p. m.

Lexington Order No. 11, Amendment No. 6, filed 3:10 p. m.

Lexington Order No. 12, Amendment No. 5, filed 3:10 p. m.

Louisville Order No. 15, Amendment No. 2, filed 3:13 p. m.

Louisville Order No. 16, Amendment No. 2, filed 3:12 p. m.

Louisville Order No. 17, Amendment No. 2, filed 3:13 p. m.

Indianapolis Order No. 1-W, Amendment No. 1, filed 3:13 p. m.

Indianapolis Order No. 2-W, Amendment No. 1, filed 3:13 p. m.

REGION IV

Jacksonville Order No. 1-F, Revocation, filed 3:14 p. m.

Jacksonville Order No. 2-F, Revocation, filed 3:14 p. m.

Jacksonville Order No. 6-F, filed 3:14 p. m.

Jacksonville Order No. 7-F, filed 3:13 p. m.

REGION V

Arkansas Order No. G-13, Amendment No. 1, filed 3:14 p. m.

Arkansas Order No. G-14, Amendment No. 1, filed 3:14 p. m.

Arkansas Order No. G-15, Amendment No. 1, filed 3:15 p. m.

New Orleans Order No. G-17, Amendment No. 2, filed 3:06 p. m.

New Orleans Order No. G-19 (Revised), Amendment No. 2, filed 3:06 p. m.

Shreveport Order No. G-11, Amendment No. 1, filed 3:06 p. m.

Shreveport Order No. G-12, Amendment No. 1, filed 3:06 p. m.

St. Louis Order No. 1-W, Amendment No. 2, filed 3:07 p. m.

St. Louis Order No. 2-W, Amendment No. 2, filed 3:07 p. m.

REGION VI

Des Moines Order No. 1-F, Amendment No. 13, filed 3:08 p. m.

Des Moines Order No. 2-F, Amendment No. 3, filed 3:07 p. m.

Duluth-Superior Order No. 1-F, Amendment No. 14, filed 3:15 p. m.

Green Bay Order No. 2-F, Amendment No. 12, filed 3:07 p. m.

Green Bay Order No. 3-F, Amendment No. 6, filed 3:07 p. m.

REGION VIII

Fresno Order No. 1-F, Amendment No. 14, filed 3:16 p. m.

Fresno Order No. 2-F, Amendment No. 2, filed 3:15 p. m.

Portland Order No. 1-F, Amendment No. 13, filed 3:16 p. m.

San Diego Order No. 1-F, Amendment No. 33, filed 3:16 p. m.

Copies of these orders may be obtained from the issuing offices.

ERVIN H. POLLACK,
Secretary.

[F. R. Doc. 44-6326; Filed, May 3, 1944;
4:45 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 59-72]

COLUMBIA GAS & ELECTRIC CORPORATION

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pennsylvania, on the 2d day of May 1944.

[Raleigh Order G-2 Under MPR 426]

FRESH FRUITS AND VEGETABLES IN RALEIGH, N. C., DISTRICT

Order No. G-2 under Maximum Price Regulation 426. Fresh fruits and vegetables for table use, sales except at retail. Adjustment of certain maximum prices of service wholesalers.

For the reasons set forth in an opinion issued simultaneously herewith and under authority vested in the District Director of the Office of Price Administration, Raleigh, North Carolina by Regional Delegation Orders Nos. 33 and 35 issued by the Atlanta Regional Office pursuant to section 2 of Maximum Price Regulation No. 426 and section (f) of Appendix H and section (g) of Appendix I of that regulation, *It is hereby ordered:*

(a) On and after the effective date of this order, the maximum delivered prices of service wholesalers whose places of business are located in the counties of Alamance, Beaufort, Bertie, Bladen, Brunswick, Camden, Carteret, Caswell, Chatham, Chowan, Columbus, Craven, Cumberland, Currituck, Dare, Duplin, Durham, Edgecombe, Franklin, Gates, Granville, Greene, Halifax, Harnett, Hertford, Hoke, Hyde, Johnston, Jones, Lee, Lenoir, Martin, Moore, Nash, New Hanover, Northampton, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Robeson, Sampson, Scotland, Tyrrell, Vance, Wake, Warren, Washington, Wayne and Wilson, North Carolina, selling commodities covered by Appendices B, D, H and I of Maximum Price Regulation No. 426, are hereby increased 6¢ per container of less than 40 pounds, gross weight; 12¢ per container of 40 pounds to 60 pounds, gross weight; and 15¢ per container of over 60 pounds, gross weight, over and above the maximum prices established by Appendices B, D, H and I aforesaid. These maximum delivered prices shall apply irrespective of the distance involved in making delivery to the purchaser. Less than the maximum delivered prices may always be charged.

(b) If the purchaser elects to take delivery at the service wholesaler's platform there shall be no increase allowed over the maximum prices as established

LIST OF COMMUNITY CEILING PRICE ORDERS

The following orders under Rev. General Order 51 were filed with the Division of the Federal Register on May 1, 1944.

REGION I

Augusta Order No. 2-F, filed 3:17 p. m.
Concord Order No. 13, filed 3:09 p. m.

REGION II

Altoona Order No. 1-F, Amendment No. 4, filed 3:11 p. m.

District of Columbia Order No. 1-F, Amendment No. 4, filed 3:11 p. m.

Binghamton Order No. 1-F, Amendment No. 4, filed 3:18 p. m.

Buffalo Order No. 1-F, Amendment No. 3, filed 3:16 p. m.

Erie Order No. 11, Amendment No. 2, filed 3:16 p. m.

Erie Order No. 12, Amendment No. 2, filed 3:16 p. m.

Erie Order No. 13, Amendment No. 2, filed 3:16 p. m.

Harrisburg Order No. P-1, Amendment No. 2, filed 3:18 p. m.

Maryland Order No. 1-F, Amendment No. 4, filed 3:11 p. m.

Maryland Order No. 1-W, filed 3:17 p. m.

Newark Order No. 3-F, Amendment No. 1, filed 3:09 p. m.

Philadelphia Order No. 1-F, Amendment No. 3, filed 3:17 p. m.

Scranton Order No. 2-F, Amendment No. 2, filed 3:11 p. m.

Williamsport Order No. 1-F, Amendment No. 4, filed 3:17 p. m.

Williamsport Order No. P-1, Amendment No. 2, filed 3:07 p. m.

REGION III

Charleston Order No. 1-F, Amendment No. 22, filed 3:18 p. m.

Charleston Order No. 3-F, Amendment No. 18, filed 3:18 p. m.

Charleston Order No. 6-F, Amendment No. 11, filed 3:19 p. m.

Charleston Order No. 10-F, Amendment No. 3, filed 3:19 p. m.

Cleveland Order No. 29, Amendment No. 2, filed 3:09 p. m.

Cincinnati Order No. 1-F, Amendment No. 28, filed 3:09 p. m.

Cincinnati Order No. 2-F, Amendment No. 21, filed 3:09 p. m.

Cincinnati Order No. P-1, Amendment No. 2, filed 3:07 p. m.

Cincinnati Order No. 10, Amendment No. 1, filed 3:12 p. m.

Cincinnati Order No. 11, Amendment No. 1, filed 3:12 p. m.

Columbus Order No. 3-F, Amendment No. 20, filed 3:09 p. m.

Columbus Order No. 7-F, Amendment No. 20, filed 3:12 p. m.

Lexington Order No. 1-F, Amendment No. 27, filed 3:11 p. m.

The Commission having examined, pursuant to sections 11 (a), 18 (a) and 18 (b) of the Public Utility Holding Company Act of 1935, the corporate structure of Columbia Gas & Electric Corporation (hereinafter referred to as Columbia Gas), a registered holding company, and its subsidiary companies, the relationship among the companies in the holding company system of said Columbia Gas, the character of the interests thereof and the properties owned or controlled thereby, to determine the extent to which the corporate structure of such holding company system and the companies therein may be simplified, unnecessary complexities therein eliminated, voting power fairly and equitably distributed among the holders of securities thereof, and the properties and business of such system confined to those necessary or appropriate to the operations of an integrated public utility system or systems under the standards of section 11 (b) of the act; and said examination having disclosed data establishing or tending to establish the following:

I. 1. Columbia Gas, a registered holding company, is a corporation organized under the laws of the State of Delaware and maintains principal offices for the doing of business in the City of New York, State of New York, and the City of Wilmington, State of Delaware. Columbia Gas is also a subsidiary of The United Corporation, a registered holding company, by virtue of The United Corporation's ownership of 19.39% of its outstanding voting securities.

2. Columbia Gas has 42 subsidiaries, one of which, Atlantic Seaboard Corporation, is a registered holding company and is also engaged in the business of transmitting natural gas; 24 of which are gas companies engaged solely in the production and/or transmission and/or distribution of gas; 5 of which are electric utilities (including one company engaged in the electric, gas and water businesses, two companies engaged in the electric, gas, water and heating business, and one company engaged in the electric and water businesses). The remaining subsidiaries are engaged in such diverse businesses as the production of oil and extraction of gasoline, street railway and bus transportation, coal mining, real estate, servicing and investments.

In addition, Columbia Gas owns, holds or controls with power to vote more than 10% of the outstanding voting securities of American Fuel and Power Company, which owns, holds or controls with power to vote more than 10% of the outstanding voting securities of Inland Gas Corporation, Kentucky Fuel Gas Corporation, Inland Gas Distribution Company, Buckeye Gas Service Company, The Kentucky Drilling Company, The Buckeye Fuel Company and Carbreath

¹ Columbia Gas states that the charter of American Fuel and Power Company, a Delaware corporation, was repealed for non-payment of franchise taxes, and that its corporate existence has been terminated and its assets are in possession of the trustee; Columbia Gas contends that American Fuel and Power Company and its subsidiaries are not subsidiaries of Columbia Gas.

Gas Company. All of said companies are direct or indirect subsidiary companies of Columbia Gas within the meaning of the Act,¹ but are involved in bankruptcy reorganization proceedings pending in the United States District Court for the Eastern District of Kentucky. These companies are not at this time being made parties to this proceeding nor are they included in the subsequent allegations herein, except where specifically named.

Columbia Gas also owns securities issued by other companies not referred to above, including 63,005 shares of common stock of American Water Works and Electric Company, Inc., a registered holding company.

3. The subsidiaries of Columbia Gas conduct their operations within fifteen states of the United States, namely, Arkansas, Indiana, Kansas, Kentucky, Maryland, Michigan, New Mexico, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Texas, West Virginia and Virginia. Altogether, one or more services are rendered to a population estimated to exceed 5,000,000 persons residing in more than 1,600 communities and in adjoining suburban and rural areas.

The combined property accounts of Columbia Gas and its subsidiaries at December 31, 1943, including intangibles, and the consolidated gross revenues for 1943 of Columbia Gas' subsidiaries, by classes, were as follows:

	Gross plant ¹		Consolidated gross revenues	
	Amount	Percent of total	Amount	Percent of total
Gas	\$412,017,716	68.26	\$88,544,262	63.28
Electric	143,519,385	23.78	40,405,920	28.88
Railway and bus	5,533,001	.92	2,735,059	1.95
Oil and gasoline	30,229,462	5.01	6,514,859	4.65
All other	12,261,300	2.03	1,725,363	1.24
Total	603,560,864	100.00	139,925,463	100.00

¹ Excluding construction work in progress of \$3,513,622.

4. The names of the subsidiary companies embraced in the holding company system of Columbia Gas as of December 31, 1943, their relationships being indicated by indentation, the states in which such subsidiary companies are incorporated, and the percent of voting securities owned by the system companies, are shown in the following table:

Name of company	State of organization	Percent voting securities owned by system companies
Columbia Gas & Electric Corporation	Delaware	
Atlantic Seaboard Corporation	Delaware	100
Amero Gas Utilities Company	West Virginia	100
Virginia Gas Distribution Corporation	Virginia	100
Virginia Gas Transmission Corporation	Virginia	100
Big Marsh Oil Company	West Virginia	72.5
Binghamton Gas Works	New York	100

Name of company	State of organization	Percent voting securities owned by system companies
Bracken County Gas Company	Kentucky	100
Bridge Gas Company	Ohio	100
Central Kentucky Natural Gas Company	Kentucky	99.9
Cincinnati Gas & Electric Company, The	Ohio	100
Cincinnati Gas Transportation Company	West Virginia	99.5
Cincinnati, Newport and Covington Railway Company, The	Kentucky	97.3
Dixie Traction Company, The	Kentucky	100
Columbia Corporation	Delaware	100
Columbia Engineering Corporation	Delaware	100
Cumberland and Allegheny Gas Company	West Virginia	100
Dayton Power and Light Company, The	Ohio	100
Eastern Pipe Line Company	New Jersey	100
Fayette County Gas Company	West Virginia	100
Gettysburg Gas Company	Pennsylvania	100
Greensboro Gas Company	Pennsylvania	100
Home Gas Company	New York	100
Huntington Development and Gas Company	Delaware	99.7
Keystone Gas Company, Inc., The	New York	100
Manufacturers Gas Company	Pennsylvania	100
Manufacturers Light and Heat Company, The	Pennsylvania	99.9
Miami Development Company, The	Indiana	100
Miami Power Corporation	West Virginia	100
Natural Gas Company of West Virginia	Ohio Fuel Gas Company, The	100
Ohio Fuel Supply Company, The	Ohio	100
Pennsylvania Fuel Supply Company	Pennsylvania	100
Preston Oil Company, The	Ohio	100
Point Pleasant Natural Gas Company	West Virginia	100
Union Gasoline & Oil Corporation	Pennsylvania	100
Union Light, Heat and Power Company, The	Kentucky	97.3
United Fuel Gas Company	West Virginia	100
Viking Distributing Company	West Virginia	100
Virginian Gasoline & Oil Company	West Virginia	100
Warfield Natural Gas Company	Kentucky	100
West Harrison Electric and Water Company, Inc.	Indiana	100
Wood Coal Company ²	West Virginia	50

¹ All companies listed, except Wood Coal Company, are included in the consolidated financial statements of Columbia Gas and its subsidiaries.

5. The subsidiaries of Columbia Gas, with certain minor exceptions,² are geographically segregated for operating purposes into seven groups referred to as The Cincinnati Group; The Dayton Group; The Columbus Group; The Pittsburgh Group; The Binghamton Group; The Charleston Group; and The Seaboard Group, with principal executive offices located respectively in Cincinnati, Dayton and Columbus, Ohio; Pittsburgh,

² The exceptions referred to are the five oil and gasoline subsidiaries (Ohio Fuel Supply Company, Preston Oil Company, Union Gasoline and Oil Company, Viking Distributing Company and Virginian Gasoline and Oil Company), Columbia Corporation, Columbia Engineering Corporation, Bridge Gas Company, Big Marsh Oil Company, The Miami Development Company, and Wood Coal Company.

Pennsylvania, Binghamton, New York; and Charleston, West Virginia. Each group has its own complement of executive and operating personnel. The operations of the individual groups are under the supervision of a chief executive officer who is the president of each company in the group and also a member of its board of directors. One of the aforementioned executive officers is also a member of the Board of Directors of Columbia Gas.

Columbia Gas has its own complement of executive personnel, certain of which are also officers and/or directors of the operating subsidiaries. For the year ended December 31, 1943, Columbia Gas'

operating expenses were reported to have been \$2,042,235, consisting of salaries and pensions of \$461,863, legal expenses of \$480,688, taxes of \$709,280, payment of \$122,194 to Columbia Engineering Corporation for services and miscellaneous expenses of \$268,210.

6. The subsidiary companies of Columbia Gas which are public-utility companies within the meaning of the Act, the states in which the businesses of such companies are conducted, and the kind of business each conducts, together with the gross property accounts as of December 31, 1943, per books, and their reported gross revenues for the year 1943, are shown in the following table:

Name of company	State of operations	Kind of business	Gross property per books	Gross revenues
Amere Gas Utilities Co.	West Virginia	Gas T-D-A	\$1,002,424	\$287,479
Binghamton Gas Works	New York	Gas P-D-A	4,053,974	1,489,349
Bracken County Gas Co.	Kentucky	Gas D	3,493	7,137
Central Kentucky Natural Gas Co.	Kentucky	Gas P-T-D	2,608,428	1,429,275
Cincinnati Gas & Electric Co., The	Ohio	Gas P-T-D-A	116,310,519	34,503,231
Cumberland & Allegheny Gas Co.	West Virginia and Maryland	Elec. G-T-D-A		
Dayton Power & Light Co., The	Ohio	Heat, Water	6,487,046	1,454,163
Fayette County Gas Co.	Pennsylvania	Gas P-T-D-A	60,427,276	20,592,325
Gettysburg Gas Corporation	Pennsylvania	Elec. G-T-D-A		
Greensboro Gas Co.	Pennsylvania	Heat, Water		
Huntington Development & Gas Co.	West Virginia	Hot Water		
Keystone Gas Co., Inc., The	New York and Pennsylvania	Gas P-T-D-A	2,553,727	1,228,912
Manufacturers Gas Co.	Pennsylvania	Gas P-T-D-A	539,028	136,878
Manufacturers Light & Heat Co., The	Pennsylvania, West Virginia and Ohio	Gas P-T-D-A	13,611,659	1,837,648
Miami Power Corporation	Indiana and Kentucky	Gas P-T-D-A	10,314,354	669,857
Natural Gas Co. of West Virginia	West Virginia, Ohio, Pennsylvania	Gas P-T-D-A	1,023,681	1,078,076
Ohio Fuel Gas Co., The	Ohio	Gas P-T-D-A	5,884,185	1,099,243
Pennsylvania Fuel Supply Co.	Pennsylvania	Gas P-T-D-A	61,056,180	16,685,504
Point Pleasant Natural Gas Co.	West Virginia	Gasoline		
Union Light, Heat & Power Co., The	Kentucky	Electric T.	537,930	62,702
United Fuel Gas Co.	West Virginia, Ohio	Gas P-T-D-A, Gasoline	8,593,110	2,908,617
Virginia Gas Distribution Corporation	Virginia	Gas P-T-D-A	117,216,847	35,388,713
Warfield Natural Gas Co.	Kentucky	Gas P-T-D-A	2,956,563	650,850
West Harrison Electric & Water Co.	Ohio, Indiana	Gas D	74,005	62,326
		Elec. D-A, Gas D-A, Water	9,282,269	4,700,812
		Gas P-T-D	99,108,070	24,738,367
		Gas D-A	1,353,785	721,627
		Gas P-T-D	16,337,509	7,493,486
		Elec. D, Water	19,761	16,905

P—Production; G—Generation; T—Transmission; D—Distribution; A—Appliance Sales.

7. The subsidiary companies of Columbia Gas which are not public-utility companies within the meaning of the Act, the states in which their operating properties are located, the nature of the business of each subsidiary company, together with gross property accounts as of December 31, 1943 and gross revenues for the year 1943, are as follows:

	State of operations	Kind of business	Gross property per books	Gross revenues
Atlantic Seaboard Co.	Maryland, West Virginia	Reg. holding company, gas transmission	\$8,463,234	\$8,564,978
Big Marsh Oil Co.	West Virginia	Holds gas prop.	66,759	—
Bridge Gas Co.	Ohio	Gas transmission	29,356	8,780
Cincinnati Gas Transportation Co.	Kentucky, Ohio, West Virginia	Gas transmission	11,061,347	4,240,852
Cincinnati, Newport & Covington Railway Co., The	Kentucky, Ohio	Street railway and bus transp.	5,290,248	2,400,761
Columbia Corporation	Kentucky, Ohio	Investments	1,086,456	1,171,172
Columbia Engineering Corporation	Kentucky, Ohio	Service company	228,581	1,223,966
Dixie Traction Co., The	New Jersey	Bus transp.	243,114	334,299
Eastern Pipe Line Co.	New York	Gas transmission	720,986	25,588
Home Gas Co.	Ohio	Gas transmission	3,662,824	1,620,707
Miami Development Co., The	New Mexico, Texas, Kansas, Michigan, Oklahoma, Arkansas	Holds real estate	609,525	23,507
Ohio Fuel Supply Co., The	Ohio, Kentucky, West Virginia, Pennsylvania	Oil production	2,867,947	368,600
Preston Oil Co., The	Ohio, Kentucky, West Virginia, Pennsylvania	Oil and gasoline production	9,173,186	1,534,113
Union Gasoline & Oil Corporation	Ohio, Kentucky, West Virginia, Pennsylvania, Ohio, Kentucky, West Virginia, Maryland, Virginia	Oil and gasoline production	4,487,344	489,623
Viking Distributing Co.	Virginia	Gasoline and oil distribution	113,253	1,229,075
Virginia Gas Transmission Corporation	Virginia	Gas transmission	4,980,044	4,571,542
Virginia Gasoline & Oil Co.	Pennsylvania, Ohio, Kentucky, West Virginia	Oil and gasoline production	13,714,826	8,508,474
Wood Coal Co.	West Virginia	Bituminous coal mining	—	—

¹ Consists of investments and securities only and income therefrom.

8. As of December 31, 1943, the public utility subsidiaries of Columbia Gas conducted electric utility operations in over 400 communities having an estimated aggregate population of 1,400,000 in the States of Ohio, Kentucky, and Indiana. As of the same date, the system had electric generating capacity of 777,419 kva and an aggregate of 15,051 circuit miles of electric transmission and distribution lines. During the year ending December, 1943, the system sold 2,527,346,255 kwh to 409,294 electric customers (residential, commercial, industrial, municipal and non-affiliated public utilities), from which it obtained gross revenues of \$40,405,920.

The electric properties of said holding company system are shown on the annexed map marked Exhibit "1", which is made a part hereto,¹ as if set out herein in full.

9. As of December 31, 1943, the subsidiaries of Columbia Gas engaged in either the production and/or transmission and/or distribution of natural, manufactured or mixed natural-manufactured gas conducted their operations in more than 1200 communities having an estimated population in excess of 5,000,000 in the States of Kentucky, Maryland, Ohio, New Jersey, New York, Pennsylvania, Virginia and West Virginia. As of the same date, the system had 9,310 wells producing natural gas, gas manufacturing plants with a daily capacity of 35,000,000 cubic feet, and an aggregate of 32,200 miles of field, transmission and distribution pipe lines. During the year 1943 the system sold 187,284,477 Mcf of natural and manufactured gas to 1,240,577 customers (residential, commercial, industrial, wholesale and municipal), from which it obtained gross revenues of \$88,544,262. In the year ended December 31, 1943, approximately 47% of the system's natural gas requirements were purchased from others.

Columbia Gas reported that (a) preliminary estimates as of the close of 1942 indicate that the gas reserves in the Appalachian area, available to the Columbia companies, either through leaseholds or purchase agreement, exclusive of off-peak gas which may be available from Panhandle Eastern Pipe Line Company, amounted to 2,759,000,000 Mcf, of which 1,995,000,000 Mcf were in lands classified as proven and 764,000,000 Mcf in lands classified as unproven; and (b) United Fuel Gas Company and The Manufacturers Light and Heat Company, subsidiaries of Columbia Gas, have since entered into contracts with non-affiliated companies for the future delivery of substantial quantities of natural gas to the Columbia system in West Virginia from large reserves located in the southwestern portion of the United States.

The gas properties of said holding company system are shown on the annexed map marked Exhibit "2", which is made a part hereto,¹ as if set out herein in full.

II. 10. The corporate and consolidated capitalization, including surplus, of Columbia Gas of December 31, 1943, is set forth below:

¹ Filed as part of the original document.

	Amount	Percent of total
CORPORATE		
Long-Term Debt:		
25-Year 5% Debenture Bonds, due May 1, 1952	\$32,000,000	
Debenture Bonds, 5% Series, due Jan. 15, 1961	44,914,000	
Total Long-Term Debt	76,914,000	24.79
Preferred and Preference Stocks:		
Preferred Stock, Cumulative (\$100 par) stated at involuntary liquidating values:		
6% Series A, 946,945 shares at \$110 per share	104,163,950	
5% Series, 40,341 shares at \$105 per share	4,235,805	
Preference Stock, 5% Cumulative (\$100 par) 123,860 shares	12,386,000	
Total Preferred and Preference Stock	120,785,755	38.9
Common Stock and Surplus:		
Common Stock, No par, 12,304,282 shares	12,304,282	
Special Capital Surplus	88,513,730	
Earned Surplus Since December 31, 1937	11,719,106	
Total Common Stock and Surplus	112,537,118	36.28
Total Capitalization and Surplus	310,236,873	100.00
CONSOLIDATED		
Subsidiary Companies:		
Long-Term Debt	69,096,460	15.07
Preferred Stock (Stated at Par)	50,000,200	10.90
Minority Interest in Common Stock and Surplus	236,722	.05
Total—Subsidiary Companies	119,333,382	26.02
Columbia Gas & Electric Corporation:		
Long-Term Debt	76,835,000	16.75
Preferred and Preference Stock	119,702,815	26.10
Total Senior Securities	315,871,197	68.87
Common Stock of Columbia Gas & Electric Corporation and Consolidated Surplus:		
Common Stock	12,223,256	
Special Capital Surplus	89,360,943	
Surplus Prior to January 1, 1938	14,336,583	
Earned Surplus Since December 31, 1937	26,830,172	
Total Common Stock and Consolidated Surplus	142,750,954	31.13
Total Capitalization and Surplus	458,122,151	100.00

11. The 6% and 5% Cumulative Preferred Stocks of Columbia Gas have equal rights except as to dividend rates and redemption premiums; both have a preference as to dividends over the 5% Preference and common stock and, in the event of liquidation, either voluntary or involuntary, have a preference as to distribution of assets over the 5% Preference and common stock to the extent of \$110 per share and accumulated and unpaid dividends for the 6% Preferred Stock and \$105 per share and accumulated and unpaid dividends for the 5% Preferred. The 6% and 5% Cumulative Preferred are callable upon sixty days' notice, the former at \$110 per share and the latter at \$105 per share.

The 5% Cumulative Preference Stock has preference as to dividends over the common stock and, in the event of liquidation, either voluntary or involuntary,

has preference over the common stock to the extent of \$100 per share and accumulated and unpaid dividends. It is callable upon thirty days' notice at \$100 per share.

12. Each share of common and Preference Stock of Columbia Gas has the right to one vote per share at all meetings of stockholders. The common stock, represented on the books at \$112,537,118 or the equivalent of 36.28% of the total corporate capitalization and surplus, has 12,304,282 votes, or 99% of the total normal voting power. The Preference Stock, represented on the books at \$12,386,000 or the equivalent of 3.99% of total corporate capitalization and surplus, has 123,860 votes, or 1% of total normal voting power. No additional voting power is conferred upon the Preference Stock by reason of dividend arrearages.

The 6% and 5% Cumulative Preferred Stocks (946,945 and 40,341 shares respectively), represented on the books at \$108,399,755, or the equivalent of 34.9% of total capitalization and surplus, have no voting rights unless and until four quarterly dividends thereon are in default, in which event each share of such Preferred Stock is entitled to one vote.

In the event of four or more quarterly defaults on the Cumulative Preferred Stocks, such Preferred Stocks, voting as a class together with the Preference Stock and cumulating their votes, could not elect any of the nine directors of Columbia Gas.

13. As of December 31, 1943, the investment account of Columbia Gas was stated at \$295,034,499,⁴ after deducting \$17,593,435 of special reserves, as is shown below:

Investments in Subsidiaries Consolidated:		
Bonds		\$2,435,500
Notes and Advances		56,274,602
Preferred Stocks		2,644,300
Common Stocks		239,706,907
Less—Reserve		301,061,309
		7,156,232
		\$293,905,077
Other Investments:		
American Water Works & Electric Co. Common Stock, 63,005 shares		5,978,653
American Fuel and Power Co. & Subs., in receivership—Long-term Debt, advances, common stock, etc.		5,308,428
Others		279,544
Less—Reserve		11,566,625
		10,437,203
Total		1,129,422
		295,034,499

The investment of Columbia Gas in the common stock of American Water Works and Electric Company had an aggregate market value of \$425,284 as of December 31, 1943. The claims of Columbia Gas, as the holder of mortgage bonds, debentures, notes and unsecured debts of American Fuel Power Company and two of its subsidiaries, i. e., Inland Gas Corporation and Kentucky Fuel Gas Corporation, which are presently involved in bankruptcy reorganization

⁴ As of December 31, 1943, Columbia Gas had a remaining balance of \$88,513,730 of "special capital surplus" available for the removal of "inflationary items or write-ups in its investment account, and also to make such further write-downs as Columbia Gas may find desirable, if not obligatory, to bring its investments into line with the values as hereafter appear as a result of adjustments subsequently made thereon." (Cf. *Columbia Gas & Electric Corporation, 4 SEC 406*) Officials of Columbia Gas have indicated that "substantial charges still remain to be made against this 'special capital surplus'" and that the investment account has not yet been restated to reflect the worth of Columbia Gas' investment in its subsidiaries. (Cf. *Columbia Gas & Electric Corporation, File No. 43-160, Tr. p. 5*.)

proceedings, were recently reviewed by the United States District Court for the Eastern District of Kentucky and were disallowed. An appeal from this decision is presently pending before the United States Circuit Court of Appeals for the Sixth District.

The investments of Columbia Gas in its subsidiaries consist of the ownership of substantially all of their outstanding indebtedness, preferred and common stocks, except for The Cincinnati Gas & Electric Company and The Dayton Power and Light Company, each of which has large amounts of mortgage bonds and preferred stocks outstanding in the hands of the public. The aggregate \$56,274,602 of notes and advances owing by the subsidiaries to Columbia Gas are payable on demand, and, with one exception, uniformly carry interest rates of 6%.

14. The subsidiaries of Columbia Gas which have outstanding indebtedness and preferred stock as of December 31, 1943, the amount thereof publicly held, the amount held within the system and the common stock and surplus of each said subsidiary are reflected in the following tabulation:

FEDERAL REGISTER, Friday, May 5, 1944

	Debt and preferred stock		Common stock and surplus	Total capitalization and surplus
	Publicly held	System held		
Atlantic Seaboard Corporation		\$10,665,000	\$1,824,252	\$12,489,252
Amere Gas Utilities Co.		721,000	50,592	771,592
Big Marsh Oil Co.		52,589	20,891	73,480
Binghamton Gas Works		2,297,108	858,353	3,155,461
Bridge Gas Co.		27,955	(4,174)	23,781
The Cincinnati G. & E. Co.	\$40,874,000		14,852,130	95,726,130
Cincinnati Gas Transp. Co.	\$10,000,000			
The Cincinnati, Newport & Covington Railway Co.	62,360	1,200,000	5,871,588	7,071,588
Columbia Engineering Corporation		1,304,597	3,796,124	5,103,691
Cumberland & Allegheny Gas Co.		50,000	255,000	305,000
The Dayton Power and Light Co.	25,147,000	2,166,864	2,841,691	5,008,555
Eastern Pipe Line Co.	10,000,000	18,987,896	49,134,986	
Gettysburg Gas Corporation		214,339	216,355	430,694
Huntington Development and Gas Co.	200	312,500	216,385	528,885
The Keystone Gas Company, Inc.		1,444,300	6,829,428	8,273,928
Manufacturers Gas Co.		335,000	194,681	529,681
The Miami Development Co.		920,000	3,068,243	3,988,243
Miami Power Corporation		565,969	47,406	613,375
Natural Gas Company of W. Va.		355,000	30,863	385,863
The Ohio Fuel Gas Co.	1,500,000	2,400,000	4,073,961	6,478,961
Pennsylvania Fuel Supply Co.		5,325,000	81,413,459	88,238,459
Point Pleasant Natural Gas Co.		575,815	1,679,214	2,255,029
The Union Light, Heat & Power Co.		15,500	29,224	44,724
United Fuel Gas Co.	1,500,000	14,235,000	39,514,263	55,249,263
Warfield Natural Gas Co.		9,790,000	1,280,467	11,070,467
The Ohio Fuel Supply Co.		296,584	1,355,059	1,651,643
The Preston Oil Co.		965,883	1,934,199	2,900,082
Union Gasoline & Oil Corporation		263,000	1,367,292	1,570,292
Viking Distributing Co.		118,188	17,727	135,915
Virginian Gasoline & Oil Co.		2,627,973	1,996,934	4,624,907
Virginia Gas Distribution Corporation		968,000	100,249	1,068,249
Virginia Gas Transmission Corporation		3,346,000	726,697	4,072,697
The Dixie Traction Co.	13,100	69,500	63,470	146,070
	119,006,660	68,565,702	192,456,621	380,118,983

¹ Preferred.

15. The corporate income of Columbia Gas as reported for the past six years ending December 31, 1943 was derived from the following sources:

	From subsidiaries consolidated		From other investments	Total
	Dividends	Interest		
1943	\$12,292,129	\$3,304,949	\$409,026	\$16,506,104
1942	8,465,890	3,581,561	403,425	12,450,876
1941	10,241,084	3,669,004	1,255,770	15,165,858
1940	13,333,553	3,562,999	1,251,973	18,148,525
1939	13,301,774	3,365,561	1,041,758	17,709,093
1938	10,854,515	3,332,357	1,584,746	15,771,618

16. The corporate and consolidated net income, the dividend requirements of Columbia Gas' preferred and preference stocks, the net applicable to its common stock on corporate and consolidated bases, and the common stock dividends paid for each year from 1938 to 1943, are shown in the following table:

	Net income		Dividends on pf'd. and pf'nc. stk.	Net income applicable to common		Common dividends pd.	
	Corporate	Consolidated		Corporate	Consolidated		
1943	\$10,071,791	\$10,894,428	\$6,453,640	\$3,618,151	\$4,440,788	\$1,222,987	
1942	5,422,954	8,773,670	6,453,640	(1,030,680)	2,320,030		
1941	8,201,132	10,441,267	6,459,665	1,741,467	3,981,602	1,222,987	
1940	11,213,031	12,840,480	6,459,665	4,753,366	6,380,815	3,668,962	
1939	10,651,293	12,083,222	6,459,665	4,191,628	5,623,567		
1938	19,386,195	10,230,747	6,459,665	2,926,530	3,771,082		

() Indicates negative figure.

¹ Includes for comparative purposes dividends of \$668,037 declared by subsidiaries out of their Surplus Prior to January 1, 1938.

17. The earnings of the Columbia Gas system may be materially affected by a final determination of pending rate proceedings initiated by the Federal Power Commission in respect of two of the larger subsidiary companies.

18. Columbia Gas reports that, with the exception of Dayton Power and Light Company and The Miami Development Company, its various subsidiaries have made and are now making complete studies to determine the original cost of their properties, and certain of them have filed reports with regulatory commissions having jurisdiction over their property accounts. As of October 31, 1943, original cost studies have been completed by 15 subsidiary companies, and "historical cost studies" (cost to first system company acquiring the property) have been completed by five non-utility subsidiaries. The completed studies are estimated to cover approximately 43%, or \$262,500,000, of the total recorded property of the subsidiaries of Columbia Gas. In addition thereto, original cost studies involving approximately \$200,000,000 have been substantially completed (exclusive of Dayton Power and Light Company). One of the subsidiaries (Cincinnati Gas and Electric Company) has restated its plant accounts to original cost by a write-off of \$29,937,541, pursuant to an order of the Federal Power Commission. Five non-utility subsidiaries (oil and gasoline) have adjusted their property accounts to the basis of historical cost, as defined above. Columbia Gas estimates that, at December 31, 1943, after the write-off by Cincinnati and certain other subsidiaries, there remains in the property accounts of the other subsidiaries about \$89,000,000 of excess over original cost.

The incomplete status of the original cost studies and the absence of any determination, voluntary or otherwise, as to the manner of disposing of any excess cost, preclude an accurate appraisal of the ultimate effect thereof upon the Columbia system. If, however, the combined property accounts of the system companies of Columbia Gas were stated at their original cost, as estimated by such companies, less depreciation reserves, the Columbia Gas system's outstanding securities at December 31, 1943 would bear the ratios shown below to the system's combined net property and other assets.

	Per consolidated balance sheet	Percent of property base	Adjustment	As adjustment	Percent of property base
Property Base:					
Combined Property Accts.	\$607,074,486			\$518,074,486	
Less Depr. Reserves	198,905,807			198,905,807	
Net Property:					
Investment (net)	408,168,679		(89,000,000)	319,168,679	
Net Current Assets	1,252,185			1,252,185	
Special Funds and Dep.	25,966,018			25,966,018	
Total Property Base	4,281,481			4,281,481	
Securities:					
Long-term debt of Subs. held by public	69,096,460	15.72		69,096,460	19.70
Preferred stocks of Subs. held by public	50,000,200	11.37		50,000,200	14.26
Minority Int. in Common stock of Subs.	236,722	.05		236,722	.07
Debenture bonds of Columbia Gas	76,835,000	17.48		76,835,000	21.91
Total:					
Columbia Gas Capital Stocks:					
Preferred Stock	107,536,015	24.46		107,536,015	30.67
Preference Stock	12,166,800	2.77		12,166,800	3.47
Balance of property base applicable to Common Stock of Columbia Gas	123,797,166	28.15	(89,000,000)	34,797,166	9.92
Total Property Base	439,668,363	100.00	(89,000,000)	350,668,363	100.00

19. The depreciation and depletion reserves of subsidiaries of Columbia Gas, as of December 31, 1943, amounted to \$198,905,807, or the equivalent of 32.76% of the subsidiaries' combined gross property accounts, per books. The provisions for retirement and depletion charged to income for the six years 1938-1943, and the ratios of such provisions to combined gross property accounts, are shown in the following tabulation:

	Combined gross property accts. Dec. 31	Provision for retirements and depletion	
		Amount	Percent gross property
1943	\$607,074,486	\$16,284,084	2.68
1942	571,535,790	14,475,488	2.53
1941	603,574,331	14,326,537	2.37
1940	587,213,148	13,015,999	2.22
1939	571,311,185	11,198,407	1.96
1938	563,718,109	10,119,669	1.79

For the years prior to 1942, the Federal income tax returns of Columbia Gas and its subsidiaries contain deductions for depreciation substantially in excess of the provisions for retirements in the accounts of the companies.

III. It tentatively appearing to the Commission, on the basis of the allegations hereinbefore set forth, that the holding company system of Columbia Gas is not confined in its operations to those of a single integrated public utility system, within the meaning of the Act, or to those of a single integrated public utility system together with such additional integrated public utility systems as meet the requirements of section 11 (b) (1) and such other businesses as can be retained under the standards of section 11 (b) (1), and that proceedings should be instituted under section 11 (b) (1) with respect to Columbia Gas' holding company system; and

It further tentatively appearing to the Commission, on the basis of the allegations hereinbefore set forth, that the corporate structure of Columbia Gas' holding company system is unduly and unnecessarily complicated, that voting power is unfairly and inequitably distributed among the security holders

thereof, and that proceedings should be instituted under section 11 (b) (2) with respect to Columbia Gas' holding company system.

Wherefore it is ordered, That Columbia Gas & Electric Corporation and each of its subsidiary companies hereinbefore named (excepting American Fuel and Power Company and its subsidiaries), all of which are hereby made respondents in this proceeding, shall file with the Secretary of the Commission, on or before the 8th day of June 1944, joint or several answers in the form prescribed by Rule U-25, admitting, denying, or otherwise explaining their respective positions as to each of the allegations set forth in Paragraphs 1 through 19 hereof. Such answer may also include a statement by the respondents of their views as to what constitutes the "single integrated public utility system", if any, which they wish to retain, and as to what additional systems and other businesses, if any, they believe can be retained with such system under the applicable standards of section 11 (b) (1). Such answer may also include a statement as to what action respondents deem to be necessary or appropriate, and which they are prepared to take, for the purpose of limiting the operations of their holding company system to a single integrated public utility system, together with such additional systems and other businesses as can be retained under the standards of section 11 (b) (1) of the act. Such answer may also include a statement by the respondents of their views as to what steps are necessary and which respondents are prepared to take to ensure that the corporate structure or continued existence of any company in the holding company system of Columbia Gas does not unduly or unnecessarily complicate the structure, or unfairly and inequitably distribute voting power among security holders, of such holding company system.

IV. It is further ordered, That a hearing under the applicable provisions of the act and the Rules of the Commission be held on the 15th day of June, 1944, at 10 A. M., E. W. T., in Room 318 of the offices of the Securities and Exchange Commission, 18th and Locust Streets, Philadelphia, Pennsylvania, at which

time the Commission will hear respondents and any other interested persons with respect to the matters and questions set forth below in paragraphs (a) through (g), and as to any issues raised in and matters presented by respondents' answer, or regarding any other issues which may be present in this proceeding, and will consider the simplification of the issues, the facts and issues that appear to be without substantial basis of controversy, the order of presentation of evidence most conducive to an orderly proceeding, the naming of a trial examiner for the purpose of receiving evidence, and such other matters as may aid in the disposition of the proceeding:

(a) Whether the electric utility assets of The Cincinnati Gas & Electric Company, The Dayton Power and Light Company, The Union Light, Heat and Power Company, Miami Power Corporation, and West Harrison Electric and Water Company constitute more than a single integrated public utility system or systems additional thereto, control of which may be retained by Columbia Gas under section 11 (b) (1) of the act;

(b) Whether the non-utility operations and businesses conducted by the companies named in paragraph (a) above are reasonably incidental and economically necessary or appropriate to the operations of any single integrated system or additional system which the electric utility assets of such companies may constitute;

(c) Whether the gas utility assets, which are used for the distribution at retail of natural or manufactured gas, of the companies listed in paragraph 6 of this notice and order constitute more than a single integrated public utility system and systems additional thereto, control of which may be retained by Columbia Gas under section 11 (b) (1) of the act;

(d) Whether the non-utility businesses and operations of the subsidiaries of Columbia Gas are reasonably incidental and economically necessary or appropriate to the operations of any single integrated public utility system or additional systems thereto as referred to in paragraph (c) above;

(e) Whether under the terms of section 11 (b) (1), and especially clauses (A), (B), and (C) thereof, Columbia Gas can retain any interest in or control over any single integrated public utility system, additional system or incidental businesses as referred to in paragraphs (a) and (b) above, together with any single integrated public utility system, additional systems and incidental businesses as referred to in paragraphs (c) and (d) above;

(f) Generally, what action is necessary to be taken by Columbia Gas and/or its subsidiaries to limit the operations of the holding company system of Columbia Gas to a single integrated public utility system and such additional systems, or other businesses, as are retainable under the standards of section 11 (b) (1) of the act;

(g) What steps are necessary to be taken by Columbia Gas and/or its subsidiaries to ensure that the corporate structure, or the continued existence of

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any company in the holding company system, does not unduly or unnecessarily complicate the structure, or unfairly and inequitably distribute the voting power among security holders, of such holding company system.

It is further ordered, That any person desiring to be heard in connection with these proceedings or proposing to intervene herein shall file with the Secretary of the Commission, on or before the 8th day of June, 1944, his request or application therefor, as provided by Rule XVII of the rules of practice of the Commission. Any such request may state the position of the applicant with respect to the matters hereinbefore set forth and with respect to what action is believed necessary to be taken by any of the respondents to comply with sections 11 (b) (1) and 11 (b) (2) of the act. Nothing herein contained shall be deemed to require any interested person to intervene as a prerequisite to being heard as to matters affecting his interest.

It is further ordered, That jurisdiction be, and hereby is, reserved to separate, either in whole or in part, or for disposition in whole or in part, any of the issues or questions which may arise in these proceedings, or to consolidate these proceedings, or any portion thereof, with any proceedings which may be instituted subsequently under other provisions of said act with respect to Columbia Gas and its subsidiaries, and to take such other action as may appear conducive to an orderly, prompt and economic disposition of the matters involved.

It is further ordered, That the Secretary of the Commission shall serve notice of the hearing aforesaid by mailing a copy of this Notice and Order for Hearing to Columbia Gas & Electric Corporation and its subsidiaries named in paragraph 6, *supra*, to the Trustees of American Fuel and Gas Company and Inland Gas Corporation, The United Corporation, the Public Utility Commissions of the States of Arkansas, Indiana, Kansas, Kentucky, Maryland, Michigan, New Mexico, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Texas, West Virginia and Virginia not less than 20 days prior to the date hereinbefore fixed as the date of the hearing; and that notice of said hearing is hereby given to Columbia Gas & Electric Corporation and its subsidiaries, to their security holders, and to all consumers of the subsidiaries of Columbia Gas & Electric Corporation, to all state municipalities and political sub-divisions of states within which are located any of the physical assets of said companies or under the laws of which any of said companies is incorporated, all State Commissions, State Securities Commissions, and all agencies, authorities and instrumentalities of one or more states, municipalities, or other political sub-divisions having jurisdiction over Columbia Gas & Electric Corporation or its subsidiaries or any of the businesses, affairs or operations of any of them; that such notice shall be given further by a general release of the Commission, distributed to the press and mailed to the mailing list for releases issued under the Public Utility Holding Company Act of 1935; and that further notice be given to all persons by publication of this no-

tice and order in the FEDERAL REGISTER not later than 20 days prior to the date hereinbefore fixed as the date of hearing.

By the Commission.

[SEAL] ORVAL L. DUBoIS,
Commission.

[F. R. Doc. 44-6303; Filed, May 3, 1944;
10:46 a. m.]

[File No. 1-1056]

NEW YORK, ONTARIO, AND WESTERN
RAILWAY CO.

ORDER SETTING HEARING ON APPLICATION TO
STRIKE FROM LISTING AND REGISTRATION

At the regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 2d day of May, A. D., 1944.

In the matter of New York, Ontario and Western Railway Company, Common Stock, \$100 par value.

The New York Stock Exchange, pursuant to section 12 (d) of the Securities Exchange Act of 1934 and Rule X-12D2-1 (b) promulgated thereunder, having made application to strike from listing and registration the Common Stock, \$100 par value, of the New York, Ontario and Western Railway Company;

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10:00 a. m. on Monday, May 29, 1944, at the office of the Securities and Exchange Commission, 120 Broadway, New York, New York, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That William J. Cogan, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] ORVAL L. DUBoIS,
Secretary.

[F. R. Doc. 44-6331; Filed, May 4, 1944;
10:12 a. m.]

[File No. 7-732]

CLEVELAND STOCK EXCHANGE AND WARNER
AND SWASEY CO.

ORDER SETTING HEARING ON APPLICATION TO
EXTEND UNLISTED TRADING PRIVILEGES

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 2d day of May, A. D., 1944.

In the matter of application by the Cleveland Stock Exchange to extend unlisted trading privileges to The Warner & Swasey Company, Common Stock, without par value,

The Cleveland Stock Exchange, pursuant to section 12 (f) of the Securities and Exchange Act of 1934, and Rule X-12F-1 promulgated thereunder, having made application to the Commission to extend unlisted trading privileges to the above-mentioned security;

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 3:30 p. m. on Friday, May 19, 1944, at the office of the Securities and Exchange Commission, 1370 Ontario Street, Cleveland, Ohio, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine and that general notice thereof be given; and

It is further ordered, That Charles J. Odenweller, Jr., or any other officer or officers of the Commission named by it for that purpose, shall preside at the hearing on such matter. The officer so designated to preside at such hearing is hereby empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] ORVAL L. DUBoIS,
Secretary.

[F. R. Doc. 44-6332; Filed, May 4, 1944;
10:12 a. m.]

[File No. 70-846, 70-850]

VIRGINIA ELECTRIC AND POWER CO., ET AL.

ORDER GRANTING APPLICATIONS AND PERMITTING DECLARATIONS TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pennsylvania, on the 29th day of April 1944.

In the matter of Virginia Electric and Power Company, Virginia Public Service Company, Engineers Public Service Company, File No. 70-846, and General Gas & Electric Corporation, File No. 70-850.

Virginia Electric and Power Company, a subsidiary company of Engineers Public Service Company, a registered holding company, Virginia Public Service Company, a subsidiary company of General Gas & Electric Corporation, a registered holding company, said Engineers Public Service Company and said General Gas & Electric Corporation, having filed applications and declarations pursuant to sections 6, 7, 9, 10, 11 and 12 of the Public Utility Holding Company Act of 1935 regarding the following transactions:

1. Engineers Public Service Company proposes to acquire from General Gas & Electric Corporation and General Gas & Electric Corporation proposes to sell to Engineers Public Service Company 782,000 shares of the common stock of Virginia Public Service Company, being all of the shares of such stock outstanding, and the claim of General Gas & Elec-

tric Corporation to certain escrowed funds in the amount of \$1,165,166.67, for an agreed consideration not to exceed \$2,500,000, of which \$1,000,000 is immediately payable in cash and an additional amount of not to exceed \$1,500,000 is payable in the event that the earnings of Virginia Electric and Power Company exceed certain specified amounts.

2. Engineers Public Service Company will surrender to Virginia Public Service Company as contribution to its capital the claim to the escrowed funds.

3. Virginia Public Service Company will thereupon be merged into Virginia Electric and Power Company pursuant to Virginia law and upon the following terms:

(a) Each share of \$6 Dividend Preferred Stock of Virginia Electric and Power Company will be converted into one share of \$5 Dividend Preferred Stock of Virginia Electric and Power Company and will receive cash for accrued and unpaid dividends on such stock to the date the merger agreement becomes effective;

(b) Each share of 7% Preferred Stock of Virginia Public Service Company, including all rights to accrued and unpaid dividends thereon to the date the merger becomes effective, will be converted into one share of \$5 Dividend Preferred Stock of Virginia Electric and Power Company and will receive \$24.50 per share in cash, plus additional cash in an amount equal to accrued dividends on said 7% Preferred Stock subsequent to March 31, 1944, to the effective date of the merger;

(c) Each share of 6% Preferred Stock of Virginia Public Service Company, including all rights to accrued and unpaid dividends thereon to the date the merger becomes effective, will be converted into one share of \$5 Dividend Preferred Stock of Virginia Electric and Power Company and will receive \$19 in cash plus additional cash in an amount equal to accrued dividends on said 6% Preferred Stock subsequent to March 31, 1944, to the effective date of the merger;

(d) The 782,000 shares of common stock of Virginia Public Service Company will be converted into 150,000 shares of common stock of Virginia Electric and Power Company;

(e) The presently outstanding common stock of Virginia Electric and Power Company will continue unchanged.

4. Holders of the Preferred Stock of Virginia Electric and Power Company or Virginia Public Service Company assenting to the merger but not desiring to retain the new \$5 Dividend Preferred Stock will be given the opportunity through an underwriting to be arranged by Virginia Electric and Power Company, to sell the new \$5 Dividend Preferred Stock to which they may become entitled at the price at which such shares will be initially offered to the public by the underwriters less \$1.50 per share and transfer taxes, but such price to the stockholders will not be less than \$112.50 per share less transfer taxes. Any stockholders not assenting to the merger who dissent therefrom within three months after the meeting of stockholders at which the merger is approved, will be entitled to receive cash in such amount

as may be obtainable under the appraisal rights existing pursuant to Virginia law.

5. In order to consummate the foregoing exchange Virginia Electric and Power Company will issue 289,491 shares of \$5 Dividend Preferred Stock. Scrip will be issued in lieu of fractional shares.

6. All of the \$10,500,000 aggregate principal amount of Virginia Public Service Company 5% Debentures due 1957 presently outstanding will be assumed by Virginia Electric and Power Company as a result of the merger and will be called for redemption at 104½ and accrued interest and all of the \$26,000,000 aggregate principal amount of Virginia Public Service Company 3¾% First Mortgage Bonds due 1972 presently outstanding, also to be assumed by Virginia Electric and Power Company in the merger, will be called for redemption at 111⅓ and accrued interest.

7. For the primary purpose of providing funds to retire the Debentures and First Mortgage Bonds of Virginia Public Service Company, Virginia Electric and Power Company will sell at competitive bidding \$23,000,000 aggregate principal amount of its First and Refunding Mortgage Bonds, Series D 3%, due April 1, 1974, and will issue \$9,000,000 of short term 2¼% and 2½% notes maturing semi-annually commencing February 1, 1945 and ending February 1, 1954. In addition, Virginia Electric and Power Company will receive a cash contribution of \$2,500,000 from Engineers Public Service Company.

8. Virginia Electric and Power Company and Virginia Public Service Company will make certain accounting adjustments and, incident to the merger, Virginia Electric and Power Company will reduce the capital representing the shares of its common stock to the sum of \$13,546,555.

9. Virginia Electric and Power Company and Virginia Public Service Company will solicit proxies from their respective stockholders in connection with special meetings of stockholders called for the purpose of voting upon the foregoing transactions.

Public hearings having been held upon the foregoing matters after appropriate notice, briefs having been filed and oral argument having been had, and the Commission having considered the record in this matter and having made and filed its findings herein:

It is ordered, That said applications, as amended, be and the same hereby are granted and said declarations, as amended, be and the same hereby are permitted to become effective forthwith subject, however, to the terms and conditions contained in Rule U-24 and subject also to the following terms and conditions and reservations:

1. That a copy of the Commission's report adopted concurrently herewith be sent to all stockholders of Virginia Electric and Power Company and Virginia Public Service Company in connection with the solicitation material requesting proxies for the special meetings called for the purpose of voting upon the merger and related transactions.

2. That the proposed issuance and sale of the \$23,000,000 aggregate principal amount of First and Refunding

Mortgage Bonds, Series D 3%, Due April 1, 1974 by Virginia Electric and Power Company shall not be consummated until the results of the competitive bidding pursuant to Rule U-50 have been made a matter of record in this proceeding and a further order shall have been entered by this Commission in the light of the record so completed, which order shall contain further terms and conditions as may then be deemed appropriate, jurisdiction being reserved for the imposition thereof in connection with the proposed transactions;

3. That no solicitation of proxies shall be made by the Dealer Managers or soliciting dealers until the fifth day after the day upon which the written solicitation material is mailed to their respective stockholders by Virginia Public Service Company and Virginia Electric and Power Company;

4. That jurisdiction be and the same hereby is reserved with respect to all legal fees incurred or to be incurred in connection with the consummation of the various transactions.

It is ordered, That, to the extent that the issue and sale of new \$5 Dividend Preferred Stock of Virginia Electric and Power Company may be subject to Rule U-50, exemption therefrom be and the same hereby is granted.

It is further ordered, That the accompanying report be and the same hereby is adopted as the report of the Commission.

By the Commission.

[SEAL]

ORVAL L. DUBoIS,
Secretary.

[F. R. Doc. 44-6333; Filed, May 4, 1944;
10:12 a. m.]

[File No. 70-874]

ATLANTIC CITY ELECTRIC CO. AND AMERICAN GAS AND ELECTRIC CO.

SUPPLEMENTAL ORDER RELEASING JURISDICTION FOR LEGAL FEES

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pennsylvania, on the 2d day of May, A. D. 1944.

The Commission having on April 1, 1944 issued its order herein under section 6 (b) of the Public Utility Holding Company Act of 1935 granting and permitting to become effective a joint application and declaration, as amended, of American Gas and Electric Company, a registered holding company, and its subsidiary, Atlantic City Electric Company, with respect, inter alia, to the issuance and sale by Atlantic City of 55,000 shares of Cumulative Preferred Stock, to purchasers selected by competitive bidding in conformity with Rule U-50 promulgated under the act; and

The Commission having in said order reserved jurisdiction over the price to be paid to the company for such preferred stock, the dividend rate thereon, the underwriters' spread and its allocation, and all legal fees and expenses to be paid in connection with the proposed transactions; and

The Commission having on April 12, 1944 issued its order granting the appli-

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cation and permitting the declaration to become effective in respect of all matters as to which jurisdiction had been theretofore reserved except legal fees to be paid in connection with the proposed transactions as to which matter the reservation of jurisdiction was continued; and

The Commission now finding no basis for imposing terms and conditions with respect to said legal fees and finding the same not to be unreasonable:

It is ordered, That jurisdiction heretofore reserved over the legal fees to be paid in connection with the proposed transaction be, and the same hereby is, released.

By the Commission.

[SEAL] ORVAL L. DUBois,
Secretary.

[F. R. Doc. 44-6334; Filed, May 4, 1944;
10:18 a. m.]

[File No. 70-883]

BUFFALO, NIAGARA, AND EASTERN POWER
CORP.

ORDER PERMITTING DECLARATION TO BECOME
EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pennsylvania, on the 2d day of May 1944.

Buffalo, Niagara and Eastern Power Corporation, a subsidiary of Niagara Hudson Power Corporation, in turn a subsidiary of The United Corporation, a registered holding company, having filed a declaration pursuant to the Public Utility Holding Company Act of 1935 and the rules promulgated thereunder with respect to the following transaction:

Buffalo Niagara, having made cash advances from time to time, on open ac-

count, to its wholly-owned subsidiary, The Lockport and Newfane Power and Water Supply Company, on which an unpaid balance is owing in the amount of \$285,000, now proposes, subject to a satisfactory closing agreement with the Commissioner of Internal Revenue, to forgive all obligations arising out of said indebtedness. Upon the elimination of said indebtedness, Buffalo Niagara then proposes to increase the carrying value of its investments in the common stocks of subsidiary companies by a like amount.

Said declaration having been filed on April 6, 1944, and the last amendment thereto having been filed on April 21, 1944, and notice of said filing having been duly given in the form and manner provided by Rule U-23, promulgated pursuant to said act, and the Commission not having received a request for hearing with respect to said declaration within the period provided in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding that the requirements of section 12 (b) of the act and Rule U-45 promulgated thereunder are satisfied, and that no adverse findings are necessary, and deeming it appropriate, in the public interest and in the interests of investors and consumers, to permit said declaration to become effective;

It is hereby ordered, Pursuant to Rule U-23 and the applicable provisions of said act, and subject to the terms and conditions in Rule U-24, that said declaration be, and hereby is, permitted to become effective forthwith.

By the Commission.

[SEAL] ORVAL L. DUBois,
Secretary.

[F. R. Doc. 44-6335; Filed, May 4, 1944;
10:18 a. m.]

WAR PRODUCTION BOARD.

ANDERSON FURNITURE COMPANY
CONSENT ORDER

Anderson Furniture Company of Dallas, Dallas County, Texas is engaged in the general furniture business. It admits receipts of consumers' goods with a cost value of approximately \$35,680 in excess of the allowable receipts of the company under the provisions of paragraph (b) of Order L-219 during April, May, and June, 1943, and has consented to the issuance of this order.

Therefore, upon the agreement and consent of Anderson Furniture Company, the Regional Compliance Chief and the Regional Attorney, and upon the approval of the Compliance Commissioner, *It is hereby ordered,* That:

(a) Anderson Furniture Company, its successors or assigns, shall not receive either directly or indirectly in the second quarter of 1944, any consumers' goods in excess of \$76,250, computed at cost in accordance with the provisions of Limitation Order L-219.

(b) Nothing contained in this order shall be deemed to relieve the Anderson Furniture Company from any restriction, prohibition or provision contained in any other order or regulation of the War Production Board, except in so far as the same may be inconsistent with the provisions hereof.

(c) This order shall take effect on issuance and shall expire on the first day of July, 1944.

Issued this 3d day of May 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 44-6322; Filed, May 3, 1944;
4:10 p. m.]